

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting
Saturday, June 14, 2008 - - 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, Paul C. Smedberg and Justin M. Wilson.

Absent: None.

Also Present: Mr. Hartmann, City Manager; Mr. Pessoa, City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Mr. Caton, Legislative Director; Mr. Castrilli, Communications Director, City Manager's Office; Ms. Harris, Communications Officer, City Manager's Office; Mr. Mason, Special Assistant to the City Manager, City Manager's Office; Police Captain Ogden; Police Chief Baker; Deputy Police Chief Corle; Ms. Boyd, Director, Citizen Assistance; Ms. Vosper, Recreation, Parks and Cultural Activities; Mr. Kagawa, Recreation, Parks and Cultural Activities; Ms. Carton, Recreation, Parks and Cultural Activities; Mr. Baier, Director, Transportation and Environmental Services; Mr. Garbacz, Transportation and Environmental Quality; Mr. Skrabak, Director, Office of Environmental Quality; Mr. Tran, Office of Environmental Quality; Ms. Hamer, Director, Planning and Zoning; Mr. Josephson, Deputy Director, Planning and Zoning; Mr. Farner, Planning and Zoning; Ms. Peterson, Planning and Zoning; Mr. Milone, Planning and Zoning; Mr. Bray, Planning and Zoning; Mr. Leiberg, Planning and Zoning; Mr. Wagner, Planning and Zoning; Ms. Haefeli, Planning and Zoning; Ms. Niebauer, Director, Office on Human Rights; Fire Chief Thiel; Mr. Catlett, Director, Code Enforcement; Mr. Hunt, Code Enforcement; Mr. Mandley, Director, General Services; and Mr. Lloyd.

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

OPENING

1. Calling the Roll.

The meeting was called to order by Mayor Euille, and the City Clerk called the roll; all the members of Council were present.

2. Public Discussion Period.

(a) John Antonelli, 1016 S. Wayne Street, Arlington, spoke of a plan by the Washington Metropolitan Area Transit Authority (WMATA) to take four blue line trains that normally run through Rosslyn, Foggy Bottom and Farragut West and run them over the long bridge out to L'Enfant Plaza. He said Metro's reason for doing it is they claim that with that area redeveloping, that is where people really want to go. What is really going on is that is a plan to take those four blue line trains, get them out of the Rosslyn viaduct and run four more orange line trains, and the bottom line is it is a net loss for Alexandria, as people who need to go downtown will have to wait for the remaining crowded blue line trains or go to L'Enfant Plaza. Mr. Antonelli said that Metro will be holding hearings on this in the summer and he hoped the City would do its best to make sure the word gets out that the plan is in existence. He said he hoped Council would speak to its representative on the Metro Board and encourage them to not support it.

(b) Christopher Koeppel, 940 N. Henry Street, spoke about having a security guard at the library during the morning, early afternoon and evening hours, as sometimes children come in with their parents or other people come in and they are loud and noisy, and the librarians have difficulty keeping them quiet. He also spoke of his persecution in the D.C. Metro area for his political and religious beliefs and said it persecuted him into homelessness.

(c) Gary Carr, 216 Aspen Street, speaking in support of the running tracks at Hammond and George Washington Middle Schools, showed a picture of the running track and the field at Hammond after one inch of rain. He said a running track facility allows for year-round usage from a larger range of the population and a field serves team sports in a limited number of participants. Field sports are well organized, whereas track activities at their core are individual or loosely affiliated. While a strong case could be made that a track is a better investment for the community than a field, fields hold political sway. He said that in a community of 136,000, they have no track facilities. He said it does not address the facilities in the east or west end of the City and it would not be available for the community during school hours or even during school because of organized activities. It does not have lights and cannot be used after dark. He said they must restore the track at their middle schools for numerous reasons, but should build an eight lane facility somewhere in the City limits that would serve a greater public good. Mr. Carr requested a study be instituted to measure the economic impact of hosting a regional or statewide track meet would have on the City.

(d) Ingrid Sanden, 5238 Bessley Place, president, Cameron Station Civic Association, said the Cameron Station Civic Association and HOA were pleased with the turnout from the community meeting on Monday night, and there were representatives from neighborhoods across the City and parents of students at Tucker, proving that the Norfolk Southern ethanol transloading facility is a serious concern for more than just Cameron Station residents. She said people are appreciative and understanding of what the City has done and is doing, however, there are too many unanswered questions, a lack of specific information, such as a concrete plan about

evacuation and emergency and perceived lack of a coordinated and articulated strategy to leave people with a sense of confidence and calm. She said the specialized fire apparatus to battle an ethanol fire is housed in a location that is not readily accessible to the incident, and the school evacuation doesn't consider that many parents have limited English language skills and do not have easy access to email and radio at their jobs. Residents at the meeting expressed their anger with Norfolk Southern, and the Norfolk Southern representatives haven't done much to ingratiate themselves to the residents. However, the residents also expressed a frustration as opposed to anger with City staff and Council after the meeting. She said she attended the fire prevention training at the Norfolk Southern facility yesterday, and while the information was somewhat useful, it didn't instill a lot of confidence when she could look over from the transfer pumps through the train cars and see children playing at Tucker Elementary playground. She said that on three separate occasions during her one hour on the grounds of the facility, comments were made by both Norfolk Southern employees and RSI employees that the safety precautions being taken were perhaps overzealous for the level of risk at the facility. One Norfolk Southern employee said to her that the 20 car derailment site and fire in Pennsylvania in 2006 had buildings 150 feet away that remained unscathed. She said Norfolk Southern has proven on many occasions that they don't care about the residents or school children near the facility. She urged the Mayor and Council to come back to the community with more specifics, less defensiveness and a willingness to address their needs rather than brief them on their needs and said they look forward to learning more about the City Council strategies and supporting Council in its fight.

Mayor Euille noted that Council had an executive session after its legislative meeting this past Tuesday and has an executive session scheduled for after this meeting today to hopefully conclude their discussions and they will be releasing a statement in terms of the concerns she just expressed and moving forward, that will also include community participation.

(e) Mindy Lyle, 5235 Tancriti Lane, speaking on behalf of the Cameron Station Civic Association and the Cameron Station Homeowners Association, said that several years ago, focus groups, community meetings and public announcements from the Council and General Growth Properties signaled what residents of the West End thought were new beginnings that would be brought about by the redevelopment of the Landmark Van Dorn area. After the formation of the Landmark Van Dorn Advisory Group, there was renewed hope that the West End could become a vibrant part of the City. However, the City has continued to award SUP's for heavy industrial use and encourage the movement of heavy industrial use from one area of the City to the West End, sending out the message to corporations that this is an appropriate use inside of the capital beltway. She said their hopes have been dashed again by the opening of the ethanol transloading facility by Norfolk Southern. Ms. Lyle said they now have a use that presents a danger to Tucker school, Cameron Station, Summers Grove, numerous businesses, residents, Metro and the Capital Beltway. She said that perhaps the facility would not have been open had the City been sending out signals that heavy industrial use adjacent to mixed use redevelopment areas and a Metro station was not

appropriate. She asked the City to declare a moratorium on new heavy industrial use, the intensification of heavy industrial use and the movement of heavy industrial use from one site in the City to another, until such time as a study can be completed and analysis done showing appropriateness of such uses in a heavy populated urban area adjacent to a Metro station and answering the question, does the City need heavy industrial use within its boundaries or is the use obsolete. She said they are not opposed to business, but they are in favor of appropriate businesses. Other jurisdictions don't have to allow these types of uses, since Alexandria provides for everyone else. Other jurisdictions have mixed use developments around Metro stations that provide increased tax revenues. She said the redevelopment of the Landmark Van Dorn area will be impeded further by increased industrial use, and they feel the developers value a continuation of compatible use and may be more likely to begin redevelopment of the area if their developments are not threatened by incompatible uses. She asked Council to declare the moratorium on heavy industrial use. She also asked that all other homeowners associations, civic associations and the Federation join them in requesting this action.

(f) Poul Hertel, 1217 Michigan Court, said he is the newly elected president of Old Town Civic Association and he spoke about the breaching of social contracts. He said a Zoning Ordinance in a property rights state can be viewed as a social contract that is entered into by the residents, the developer, the business and the City. Unfortunately, he said, the City has taken upon itself to abrogate these contracts in certain areas of the City. Public housing is important to the City, but it let James Bland neighbors pay for it by tripling their density through zoning changes for them. Irrespective of the nonsensical \$120,000 limit they are asking them to subsidize is weighing down if not possibly jeopardizing the entire historic preservation of Old Town by entertaining the tripling of the density and height on Washington Street. He said they want to take away their ability to comment on SUP's, a fundamental part of the social contract. Mr. Hertel said that on the waterfront, the owners of the Robinson Terminal wish to terminate the '92 small area plan. If that is the case, then they demand an open dialogue where they are at the table. He said they are promulgating policies of changes in their social contract cumulatively or surpassing their staff's ability to provide an analytical support required and their ability to absorb them. If Council chooses to keep on this path, they need the City to work with them, not against them, and they need much higher level of analytical work rather than political rhetoric.

(g) Jack Sullivan, 4300 Ivanhoe Place, presented Council with a resolution that was adopted by the Seminary Hill Association Board at its meeting this past Thursday concerning the opposition of the Norfolk Southern's ethanol off-loading site in southwestern Alexandria. The Association urges the City officials and federal and state executive and legislative authorities to do everything in their power to force Norfolk Southern to cease operations immediately because the potential danger to nearby school children and residents and to the several vital transportation arteries that are adjacent to the site. They also request the Commonwealth's Attorney to consider loading criminal charges of reckless endangerment against those responsible at Norfolk Southern who allow the facility to begin operations without Alexandria's first responders

having the capacity to combat an explosion, fire or spill disaster. Mr. Sullivan said the term reckless endangerment differs in definition among legal jurisdictions, however, two characteristics mark all such laws. The accused engaged in conduct that placed or might have placed another person in danger of death or serious bodily harm and that the accused acted recklessly and the conduct deviated from a standard of care and safety that normally would be required under the circumstances of the situation. He said they believe these criteria have been met, when Norfolk Southern opened its facility without the Alexandria Fire Department being aware of its presence and without the equipment or training to combat a disaster. Ethanol is a dangerous and hazardous chemical, and in October 2006, a Norfolk Southern train with 23 ethanol cars derailed in western Pennsylvania, causing a massive fire in which a number of tank cars were destroyed. Start-up's are among the most risky periods in any operation, yet Norfolk Southern ignored the potential and started the facility without adequate safeguards, and they think this is reckless endangerment and borders on the criminal. He said he hoped the City would pursue that avenue as well as others.

(h) Annabelle Fisher, 5001 Seminary Road, said she is a renter and is a member of the Landlord-Tenant Board, and she requested the Council to use their bully pulpit to not only pursue and encourage homeownership but to encourage the rights of renters to rent and live in Alexandria, as renters are a good group of people. There are many people who rent who don't want to buy, can't afford to buy who have lived in Alexandria for years and want to stay in Alexandria. She said she hoped Council would stand up and say they want their renters there too, as they are an important part of their community. Ms. Fisher said when they have the farmers market, they are parked all around City Hall, and there are trucks parked in handicapped parking zones, and she said there aren't that many handicapped spaces and they have now taken up all the meter spaces around City Hall with a sign that says no parking from 5 a.m. to 11:45.

(i) Geoffrey Goodale, 493 Naylor Place, president, Brookville Seminary Valley Civic Association, said the Norfolk Southern ethanol transloading facility is in relative close proximity to the Brookville Seminary Valley area. He said the chronology of events in their view reveals two fundamental problems. First, there was not a process in place that required the City staff to report on developments relating to the ethanol facility to the Council or to the public. Second, the actual communications between the City staff and the Council and between the City and the community were dismal. He said they believe the problems can be addressed by putting a process in place by where the City staff notified the Council and the community about any proposal by any entity to commence or intensify heavy industrial activities that affect the public health and safety and that the City staff keep the Council and the community informed of developments relating to such proposals. Dissemination of such information to the public could be done through the Enews service, or by the Planning and Zoning staff sending emails about such developments to the presidents of the affected civic associations. He said they feel it is imperative for the Council to take appropriate actions to protect public safety. Such actions would entail working with federal and state officials on legislative and regulatory initiatives and designing viable disaster preparedness plans and providing necessary equipment and training to City rescue

personnel. Mr. Goodale said that in order to ensure that the situation like the present one where Norfolk Southern obtained a special ruling from the Federal Surface Transportation Board in order to avoid having to obtain an SUP from the City does not occur again, the Council can and should work closely with the members of Virginia's Congressional delegation and State delegates and senators on relevant legislative initiatives. With respect to disaster preparedness plans, he attended the community meeting in Cameron Station this past week and he did not find Mr. Porter's proposed evacuation plan for Tucker Elementary School children that involved cutting holes in fencing with bolt cutters or a key to be a viable one. He said he was also disconcerted to find out that only a handful of fire department personnel obtained training on the equipment necessary to fight ethanol triggered fires. Mr. Goodale said they understand that Council recognizes the severity of the problem and appreciate everything they are doing and requested that Council take the recommendations into consideration as it determines what action to take.

(j) Julie Crenshaw Van Fleet, 26 Wolfe Street, said she was not going to dump this on the City Manager and his staff, as there is another responsibility that needs to be borne related to the ethanol plant at Cameron Station. She said that on June 20, 2006, Mr. Lawson and Mr. Winbush, both vice presidents of Norfolk Southern, met with Mr. Euille. There was a meeting with the Mayor with Norfolk Southern before there was a meeting with the City. On June 23, that meeting did take place with the City Manager and a few people in the departments in the City. She said her question to the Mayor was where was he and what did he do. She said Mayor Euille is now instructing the City Manager to inform WMATA that they have an ethanol station next to the Metro station, but she said Mayor Euille is on the Board. She asked what he has been doing besides going to Europe and being entertained by people who are not going to make a difference of an ethanol plant in Alexandria. She said he is having a great time being Mayor, but the City is not having fun. Ms. Crenshaw Van Fleet said the City has very serious problems. She said if she were him, she would have made certain that the vice mayor was there or the vice mayor was informed, and she guaranteed that Vice Mayor Pepper would have been asking questions. She said she would not have left it to the City Manager to deal with it as Norfolk Southern happens to come in and go through the City process. She said Councilman Lovain was already on Council at that time and he is the transportation person, and he could have asked him, being that Norfolk Southern is a transportation company what might be the concerns, and he could have told him about some of the transportation laws and maybe made some calls. She said Mayor Euille is responsible for the problem and he is not paying attention to what's going on in the City. She said he is going to Europe again in August and is having a good time and this is why she did not vote for him and does not support him, and it has nothing to do with anything other than she didn't think he was competent for the job.

(k) Michael Hobbs, speaking on behalf of the Alexandria Federation of Civic Associations, said they do not appear to speak to the substance of the Norfolk Southern ethanol transloading case, but rather to reinforce their deep concern about the process by which it has come to this point. That process was deeply flawed and

they should assign the highest priority to correcting it if public confidence in the transparency and competence of the government are to be maintained. Two years ago, he said, residents in the Cameron Station and Summers Grove neighborhoods were surprised to learn that the Virginia Paving Plant next door had not been operating in accordance with the terms of their special use permit for some time, and that the company planned to substantially expand its operation. A new SUP was granted to permit the expanded operation but it was conditioned on new provisions designed to protect the public health and safety. The Council made every effort to reassure the public that its interest would be protected to the maximum extent possible, and now a little less than two years later, the community has learned once again that a significant new industrial operation posing substantial questions about public safety has begun without their prior knowledge or participation. He said the purpose is not to argue who is responsible for the failure of communication, as that damage is already done and fixing blame for it does not help to resolve the situation that now confronts Council. They want to emphasize what they already know, which is that the lack of public information and participation in the process has damaged the credibility not only of Norfolk Southern but of the City. Norfolk Southern's refusal to discuss its plans with the community, or even to consider Mayor Euille's request that it suspend the operation until the minimum safety measures could be put in place has displayed an arrogant indifference to the public interest. But the City itself, by its own actions or omissions, has impaired the community's trust and confidence in their City government's ability to protect that interest. He said that regardless of the outcome, they should all have learned once again that failure to assure public participation in decisions which may have significant impacts on their community can have damaging consequences that go well beyond the particulars of the case at hand. It is imperative that the City now and going forward renew and restate its commitment to the principle of public awareness, information and opportunity to participate in the process leading to such important decisions. The message that comes from the top, from the Mayor, Council and City Manager, is key. That message should be that in Alexandria, public participation is not regarded as an annoyance or an aggravation, something to be avoided or overlooked if it is inconvenient, it is a central principal of their government, and as such, their elected and appointed officials should assure that it is honored both in principle and in practice in the Norfolk Southern case and in any other matters of comparable public importance.

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

3. Public Hearing on the Questions To Be Submitted For an Advisory Referendum to the Voters of the City Regarding the Process to Elect the City Council and School Board and Whether the Questions Should Be Included on the Ballot at a May General Election or at a November General Election. (#29, 5/13/08)

(A copy of the memorandum dated February 12, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 3; 6/14/08, and is incorporated as part of this record by reference.)

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

(a) David Kaplan, 303 East Glendale Avenue, said he served as a City election officer for four years and the chief officer at G.W. School since 2006 and said the referendum will create voter confusion, as the outcome of the referendum is non-binding. He spoke of the concern for the wording of option A, as it gives four choices to vote on and some of the options contradict each other. Option B has fewer questions, but the questions are compound and the wording doesn't make clear when it would vote for the officials. He recommended it be done as a city-wide survey instead. He spoke of the need to engage people in the West End.

(b) Linda Dwyer, 604 Melrose Street, said she is a precinct chief and said she is not convinced of the necessity of placing either set of questions on a ballot. She noted the questions are a public opinion survey and there are other ways to gauge preferences without going to a referendum. She said that if Council decides to proceed, she asked Council to choose the set with just the two questions. She noted that there can be no explanatory information on the ballot, so voters will turn to the election officials and they are prevented by law from assisting them with any explanations. She asked Council to not put the questions on the 2008 presidential ballot because of the very heavy turnout expected.

(c) Anna Leider, 125 N. Lee Street, Apt. 401, secretary of the Alexandria Electoral Board, said the Electoral Board has serious concerns regarding the potential placement of the four questions on the November 2008 ballot, since they are expecting record turnouts, and it will increase the time in the voting booths by several minutes. The Electoral Board believes the risk of having voters turn away in frustration could be minimized or eliminated by holding the referendum in November 2009, as gubernatorial elections are typically the second highest turnout election.

(d) John Howard Eisenhower, 630 S. Pitt Street, spoke about the two sets of language and said four questions is absurd, and he spoke to the confusion of the wording for the second set of questions. He said they should drop staggered terms and focus on question number one of the second set. He said leap year plus three is a quiet year and the time to do these things in November. He also noted that he didn't want this scheduled for May 2009, as it will turn into a contest between candidates and parties in the City.

(e) George Webber, 3505 Halycon Drive, spoke in favor of three changes in the local elections. The wording of the two sets of questions is rather involved, so he would pick the second set where two questions is less confusing than four. He said he would like to change the Council and School Board elections from May to November, would like to change the terms of the Council and the School Board to four years, holding elections in odd numbered years, and he would like to stagger the elections, electing a portion every two years.

(f) Van Van Fleet, 26 Wolfe Street, asked why Council hasn't included wards

as one of the election alternative choices, as wards result in a greater intellectual diversity among the Council and are the only real meaningful alternative to alter the defunct one party system it is living under. He said it would be beneficial for the residents of Old Town and other geographic areas to have their own councilmembers to go to for assistance on issues. The election task force recommended no changes to the current election process, which included the consideration of wards, staggered terms, elections in November and increased pay to councilmembers assistants, however Council decided to have the Mayor appoint two councilmembers to study the recommendations. Mr. Van Fleet said he had no doubt that regardless of any non-binding election decision in November, if it doesn't meet Council's approval, they will make its decision disregarding any citizen input.

(g) Katy Cannady, 20 East Oak Street, said she would abhor staggered terms and it should never be precluded for them to have a change election if at some point the citizens are crying out for change. She said she is also against a four year term, as three years is long enough. She said that for the May election costing money, there is no price tag on democracy. She said she would prefer to forget the whole referendum idea, but if it has it, it should be in May.

(h) Annabelle Fisher, 5001 Seminary Road, said some of the most important questions that were raised a couple of months ago have not been answered, such as why is there a low turnout, why are people not voting, and why hasn't it had more diversity on Council. She asked if the democratic Council would allow folks to engage in running for office. She said she supports a district or hybrid Council, however, she would like to see Council not vote to have the referendum on the ballot until the questions are answered.

(i) Poul Hertel, 1217 Michigan Court, said the language needs to be clarified, as he had trouble understanding what was there. He suggested they ask if they are happy with the system. He noted that more resources will be required to get the message out. He said he didn't think the citizens would be served by excessively expensive campaigns. He urged Council to look at how to make the planning meetings and planning processes more inclusive and not just speaking to people, and the civic associations need to do more.

(j) Julie Crenshaw Van Fleet, 26 Wolfe Street, said her greatest concern is having responsible people who sit in the offices and have people who say every vote counts, as they want to encourage people to vote. She said she is interested in wards, as she wants someone who is responsible for her area and she wanted someone that is responsible for the City and she was not seeing that in too many instances, and she said she has seen wards work in smaller places. The referendum is confusing and doesn't make sense and is not something they will be able to educate voters on. She said they need to look at things very differently from what they are and she wanted someone who is responsible to the people who live here.

(k) Douglas Thurman, 804 Duke Street, speaking on behalf of the Alexandria

League of Women Voters, said the League feels that even though fewer people may be voting in City elections, there is more interest by the informed voter. Changing the local elections to November would marginalize their local Council elections, as they would be superseded by state and national elections. He said the League feels that the recommendations of the task force are sound and should be accepted by Council.

(l) Michael Hobbs, 419 Cameron Street, said there are two other options that Council should consider in addition to the two questions it has now. The third question is to put neither of the sets of questions to a referendum, as the election process review committee deliberated fair and openly, was thorough and comprehensive. The fourth option would be for Council to decide the question and to take responsibility for that decision. If there is to be a referendum, the option one set of questions would be preferable, as the wording of the questions in option two does not permit a yes vote in favor of the May election cycle or yes in favor of electing all at the same time. He said the worst choice would be to conduct a referendum in a presidential or gubernatorial year, as virtually all of those who vote in the City elections in May already turn out and vote in the federal and state elections in November, so there are no new voters to be found. Mr. Hobbs said shifting the election from May to November shifts it from the most important election to the least and asked that it not be moved to November.

(m) David Fromm, 2307 E. Randolph Avenue, said he received two replies from a neighbor from the posting he made to the Del Ray Citizens yahoo group relating to moving the elections from May to November, stating the preference for November elections and that the local papers would do their more indepth summary of the local candidates if the election was moved to November when people are paying more attention. Mr. Fromm said that when the issue is presented in May to November terms, it gets the practical response - it will be cheaper and easier. He asked what are the real cost benefits and consequences of the changes in the election process. He said if they are going to ask a question, it should be one unembellished one: "do you support continuing the existing three year terms of service for the City Council and School Board with May elections for all members."

(n) Joanne Lepanto, 4009 N. Garland Street, said she opposes both sets of questions and opposed the referendum, whether it's on a November or May ballot and regardless of the number of questions asked. She said she opposed the original referendum question and she opposed the broadened question today, but if they are going to have a referendum, perhaps it should broaden it further - to add a question about term limits, as a strong argument could be made that if it had term limits, voter turnout could be increased. She urged Council against having a referendum, but if Council thought it was a good idea, she asked Council to ask itself if it would be willing to add a question about term limits.

(o) Jessalyn Fuentes, 3304 Wyndham Circle, #136, said she didn't want either propositions to be put on the ballot, and said the ballot question doesn't fulfill the mission as stated in the election reform memorandum about engaging the entire community. She said asking someone to pull a lever when they don't know who the

person is is not voter participation, and the way to get people engaged is to motivate them. She said councilmembers and local politicians can figure out a way to reach out to Alexandrian's.

(p) Pat Troy, 310 Wolfe Street, asked why Council would be talking about, as there are 27 elected offices in Alexandria and all are held by democrats, and that means the system works. He said the independents and republicans don't have a chance in the City. He asked what change is - the right or wrong change - and if it is going to do something, make sure it's proper and it should stick to what it has. The ones that are voting right now care. Mr. Troy said they need one change, which is a ward system, as no one in Old Town represents them.

(q) Bernie Schultz, 3272 Martha Custis Drive, said no compelling reason to reject the task force report that was originally appointed by the Mayor has been given. He asked what were the problems with their recommendations. He said they haven't done enough in terms of analyzing the complexity of the questions, and he recommended that they delay it and to rush it into November is not productive and there are questions of involving the Electoral Board and having them assist in the wording, as they are supposed to be an independent neutral entity.

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

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

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council deferred final action on this item to June 24, 2008. The voting was as follows:

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

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR

Planning Commission

4. ENCROACHMENT #2008-0002
1309 KING STREET

BAY WINDOW

Public Hearing and Consideration of a request for an encroachment into the public right-of-way for a bay window; zoned KR/King Street Retail. Applicant: Cloverdale, LLC

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 6/14/08, and is incorporated as part of this record by reference.)

5. **SPECIAL USE PERMIT #2008-0033**
4300 KING STREET & 3101 PARK CENTER DRIVE
XSPORT FITNESS AND HEALTH CLUB
Public Hearing and Consideration of a request for an expansion of an existing health club and an increase in hours of operation; zoned CRMU-H/Commercial Residential Mixed Use High. Applicant: Capital Fitness-King Street, LLC by M. Catharine Puskar, attorney

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 6/14/08, and is incorporated as part of this record by reference.)

6. **SPECIAL USE PERMIT #2008-0035**
1320 BRADDOCK PLACE (Parcel Address: 1310 Braddock Place)
BRADDOCK PLACE DELI - AMENDMENT
Public Hearing and Consideration of a request to amend a special use permit to increase the hours of operation, allow outdoor dining and amend the schedule for trash collection; zoned CRMU-H/Commercial Residential Mixed Use High. Applicant: Braddock Place Deli, LLC by M. Catharine Puskar, attorney.

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 6/14/08, and is incorporated as part of this record by reference.)

7. **SPECIAL USE PERMIT #2008-0032**
10 LEADBEATER STREET
PARKING REDUCTION
Public Hearing and Consideration of a request for a parking reduction to allow tandem parking; zoned R2-5/Residential. Applicant: Judith and Donna Ramsey by M. Catharine Puskar, attorney

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 6/14/08, and is incorporated as part of this record by reference.)

8. DEVELOPMENT SPECIAL USE PERMIT #2008-0011
3015-3111 MOUNT VERNON AVENUE & 3026 COMMONWEALTH AVENUE
MOUNT VERNON COMMONS (TRIANGLE SITE) - EXTENSION
Public Hearing and Consideration of a request for a time extension of a previously approved development special use permit, with site plan, to construct a residential building with ground floor uses, an increase in FAR and a parking reduction; zoned CDD #13/Coordinated Development District 13. Applicant: Mount Vernon Commons, LLC by Joanna Frizzell, attorney

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 6/14/08, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council approved the action consent calendar, with the removal of docket item #8, which was considered under separate motion. The approval was as follows:

3. City Council approved the Planning Commission recommendation.
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:

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

8. DEVELOPMENT SPECIAL USE PERMIT #2008-0011

3015-3111 MOUNT VERNON AVENUE & 3026 COMMONWEALTH AVENUE
MOUNT VERNON COMMONS (TRIANGLE SITE) - EXTENSION

Public Hearing and Consideration of a request for a time extension of a previously approved development special use permit, with site plan, to construct a residential building with ground floor uses, an increase in FAR and a parking reduction; zoned CDD #13/Coordinated Development District 13. Applicant: Mount Vernon Commons, LLC by Joanna Frizzell, attorney

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 6/14/08, and is incorporated as part of this record by reference.)

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

(a) H. Steven Dolan, 2706 Commonwealth Avenue, asked that the application be modified to attach a condition which revokes the extension of the approval if demolition of the existing building is not accomplished within 90 days of the extension being granted.

(b) Joanna Frizzell, 1750 Tysons Blvd, Suite 1800, McLean, attorney representing the applicant, said the time they have to start construction is 18 months and that time can go quickly when it has a change in ownership of the property. She said they are confident that the demolition will occur within the next 90 days and will probably occur well before that. She said that if the extension were revoked, then the end goal for the project will not go forward, so it seemed like a large risk.

Division Chief Farner and Mr. Bray responded to questions of City Council regarding the time allowed for the extension and for leverage for change of ownership.

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

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

WHEREUPON, upon motion by Councilman Wilson, seconded by Councilman Krupicka and carried unanimously, City Council approved the Planning Commission recommendation, subject to the review provision after six months if demolition has not proceeded. The voting was as follows:

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

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

9. Public Hearing to Receive Citizen Comment on the Eco City Charter for the Eco-City Alexandria Project.

(A copy of the City Manager's memorandum dated June 5, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 9; 5/13/08, and is incorporated as part of this record by reference.)

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

(a) Brian Gordan, 1050 17th Street, NW, Suite 300, Washington, D.C., representing the Apartment and Office Building Association of Metropolitan Washington, expressed concern about the City requiring or mandating certain practices, as it is simply not cost-efficient and they have concern with the language in that they may not be able to pursue policies that would incentivize them and make the numbers work and the consequence might be that if it is cost inefficient to do a rehabilitation project that is green, those renovations may not occur. Mr. Gordan said on general guiding principles for land use and open space, the statement is in contradiction with itself in that it states that the policies should be implemented consistently and applied consistently to all development and then later it says in ways appropriate to the particular neighborhood. He asked that it try to create more flexibility for the approach it might take and not apply all policies equally to all types of development.

(b) Dave Levy, 309 E. Nelson Avenue, said he is grateful for the opportunity to develop this, and he had an opportunity at Tucker School to hear about the ethanol transfer facility, and they need a notice provision to fill the gap where it got caught unaware. He said the charter should address how they fill gaps that aren't in State and Federal provisions to protect the community, environment and safety.

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

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

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council adopted the Eco-City Charter and thanked the Environmental Policy Commission, Virginia Tech, the community and City

staff who participated in the development of the Charter.

City Manager Hartmann announced that the Office of Environmental Quality has been created from the Division of Environmental Quality from the Transportation and Environmental Services Department, and Bill Skrabak is the department head of that new office and Lalit Sharma has been promoted to division head.

The voting was as follows:

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

Director of the Office of Environmental Quality Skrabak made a presentation to Council. Danielle Fidler, chair of the Environmental Policy Commission, introduced the members of the committee that were in the audience.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

10. DEVELOPMENT SPECIAL USE PERMIT #2007-0037
SPECIAL USE PERMIT #2008-0038
3534, 3502, 3540, 3518 & 3610 WHEELER AVENUE
ALEXANDRIA POLICE FACILITY

Public Hearing and Consideration of a request for a development special use permit, with site plan and modifications, to construct a public building and a request for a special use permit for a transportation management plan; zoned I/Industrial. Applicant: City of Alexandria, Department of General Services

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 6/14/08, and is incorporated as part of this record by reference.)

Mr. Wagner, Planning and Zoning, Mr. Farner, Planning and Zoning, and Mr. Garbacz, Transportation and Environmental Quality, made a presentation of the staff report. General Services Director Mandley responded to questions from Council about the planned addition/expansion and extra space that was proposed,

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

- (a) Annabelle Fisher, 5001 Seminary Road, spoke about no one knowing about the community meetings held, the traffic study is outdated and it needs reviewing,

and police staff should pay for its parking to generate revenue.

(b) David Fromm, 2307 E. Randolph Avenue, said he served on the task force that reviewed the site selection, and he spoke in support of the station.

(c) Joanne Lepanto, 4009 N. Garland Street, president, Seminary Hill Association, said Seminary Hill has traffic related concerns, some of which have not been addressed, such as the traffic impact on Duke Street and the potential with cut through traffic. Said she the recently adopted transportation master plan, including the elimination of traffic lanes on Duke Street, is not reflected in the analysis and is a significant shortcoming. Ms. Lepanto spoke of the combined affects of the police facility, the DASH facility and the winter fields project on the Duke Street traffic. She also spoke of the concern of the traffic assumptions of the completed Woodrow Wilson bridge project and cut-through traffic in residential neighborhoods and request that all employees, visitors, deliveries, service and other vehicular traffic to the site be directed not to use the neighborhood as a cut-through street, and asked that it be included as a condition in the special use permit.

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

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

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

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

11. TEXT AMENDMENT 2008-0005
INFILL REGULATIONS
Public Hearing and Consideration of a text amendments to the Zoning Ordinance related to infill development. Staff: Department of Planning and Zoning

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 6/14/08, and is incorporated as part of this record by reference.)

David Brown, member of the infill task force, made a presentation of the task force report. Ms. Peterson, 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) Marc Allen, 506 Woodland Terrace, said he and his wife are trying to move his three bedroom house to a four bedroom house, and in the process, discovered this at a late date and realize that everything they were doing was under the current rules, and then were told that the effective date of this will be retroactive. He requested that Council vote to make this effective toward the end of the month.

(b) Ross Little, 1200 First Street, #1329, representing the Arlington/Alexandria Chapter of the Northern Virginia Building Industry Association, spoke about the height issue and how to administer it - whether it should be 25 feet or 27 feet is an open question and getting that number correct could have a significant impact not only on potential additions to existing houses but whether new houses get built at all. Mr. Little requested language change to address entire blocks of development.

(c) Poul Hertel, 1217 Michigan Court, said the results of the committee conform with what the community has been expecting. He said with regard to height, Commonwealth Avenue by Mt. Vernon has a clear example of some of the issues they are trying to address. Mr. Hertel said the City loves to build to the curb line and they must do average setbacks, and in some areas that might work, but in other areas, it will lead to funny scenarios, as they have many areas in towns where it has houses close to each other but are separate, and if they all have to conform to the uniform townhouse front, it would not achieve the desired results.

(d) David Fromm, 2307 E. Randolph Avenue, representing the Del Ray Citizens Association, said the association is in support of the infill development regulations.

(e) Steve Johnson, 327 N. Latham Street, said he lives next door to one of the more controversial development projects, and he spoke in favor of the infill regulations. He encouraged the City to make sure to devote financial resources to develop a pattern book for development.

(f) Andres Domeyko, 1312 Kingston Avenue, spoke in favor of the amendments but stated his concern that many citizens were not aware of the neighborhood task force and did not have sufficient time to reflect and comment on the implications of the changes, and he was concerned about the short deadline for the implementation of the measures. He urged Council to come up with something to lighten that burden of going through an SUP process to build a house.

(g) Marguerite Lang, 14 W. Rosemont, representing the Rosemont Citizens Association, spoke in favor of the new regulations. She said they would like to work with the Planning staff this summer to find out more information on what the options are for a local district, so they can present the information to their community.

(h) James Snyder, 1907 Commonwealth Avenue, spoke in support of the infill regulations, with a few caveats. He noted his concern with the impact of the FAR calculations on older buildings, where it is trying to prevent oversized new houses taking down appropriate existing houses. He said his concern is that if applied to older buildings, with plaster walls, wood siding, deficient mechanical and other systems that need upgrading, someone would say it is more cost effective to replace it with a new building where it can get useable FAR.

(i) Kim Allen Beasley, 11 Forrest Street, spoke in support of the infill task force recommendations. He spoke of his one concern of the window of time for implementation, as it catches some residents in a position where they have engaged six to eight months in a design process, only to be caught, costing them tens of thousands of dollars in design fees that have been wasted.

(j) Ed Ablard, 18 W. Del Ray Avenue, said he lives three doors down from Mr. Beasley's design house, which is the house that it looks like it is higher than it really is, and he did a fine job with the house. He asked about the economic consequences of imposing a lid on the City, and he asked if the City has done an environmental analysis of what the change will do with regard to the economic assets to provide, safe, convenient affordable housing.

(k) Amy Slack, 2307 E. Randolph Avenue, said that no matter how much time it takes in enacting something, a great many people are not going to know anything until it is in their back yard and affects them. She asked Council to not delay.

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

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

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation, with a request to direct the City Attorney to bring back to Council recommendations as relates to the special use permit process and whether there are options that City Council can consider to further simplify or streamline that according to the conversations they have had, for staff to come back to City Council with further analysis of the enactment date issue, projects and process, so Council can have a

better understanding of the scope and scale of the project, to hear feedback from staff and the task force about a style guide, and to accept the language with regard to redevelopment of entire blocks.

Councilman Krupicka said it should be clear that 18 months from now, a report should come back to Council that analyzes what's happened over the past 18 months and provide suggestions for clarification. As part of next year's budget, there should be a specific budget item on building a pattern book and what it takes to do that.

The voting was as follows:

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

* * * * *

City Council heard the following item out of turn:

- 27.1 Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to Adopt Comprehensive Zoning Infill Regulations.

(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. 27.1; 6/14/08, 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. 27.1; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the proposed ordinance on first reading and scheduled it for public hearing, second reading and final passage on June 24, 2008, with the same amendments as noted for item #11 previously approved. The voting was as follows:

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

12. TEXT AMENDMENT #2008-0006
DEVELOPMENT SPECIAL USE PERMIT #2007-0034
3750 JEFFERSON DAVIS HIGHWAY

ALEXANDRIA TOYOTA

Public Hearing and Consideration of a request for: (1) a text amendment to the CDD #7 table in the City's Zoning Ordinance and; (2) a development special use permit, with site plan, to construct an auto detailing building and the installation of auto lifts; zoned CDD-7/Coordinated Development District #7. Applicant: Alexandria Toyota by Harry Hart, attorney

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, a motion was made by Councilman Krupicka and seconded by Vice Mayor Pepper, City Council closed the public hearing and moved approval of the Planning Commission recommendation.

Councilman Smedberg asked about the trash receptacles and the cost of the receptacles, as the report states the receptacles for this application is \$1,000 and in others it's been \$500.

Mary Catherine Gibbs, 307 N. Washington Street, attorney representing the applicant, said the trash cans are a standard condition.

Councilman Krupicka amended his motion to include a request for staff to come back with a clarification of exactly what the trash can policy is, who is asked to pay what, when and how.

The voting on the motion, as amended, was as follows:

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

13. MASTER PLAN AMENDMENT #2008-0003

TEXT AMENDMENT #2008-0003

CDD CONCEPT PLAN #2008-0001

POTOMAC YARD DEVELOPMENT

(Potomac Yard is bordered by the Arlington County line to the north, Jefferson Davis Highway to the east, George Washington Parkway to the west and Braddock Road to the south.)

Public Hearing and Consideration of a request to amend the City's Master Plan, Zoning Ordinance and the CDD #10 Concept Plan to relocate office density from Landbays J and L to Landbay H, revise use map and height limits for Landbay H, delete language regarding mix of residential uses, and permit office use to be

converted to retail through the SUP process; zoned CDD #10/Coordinated Development District. Applicant: MidAtlantic Realty Partners, LLC by M. Catharine Puskar, attorney

PLANNING COMMISSION ACTION: MPA: Resolution Adopted 4-2
CDD & TA: Recommend Approval 4-2

(A copy of the Planning Commission report dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 6/14/08, and is incorporated as part of this record by reference.)

Mr. Farner, Planning and Zoning, made a presentation of the staff report.

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

(a) M. Catharine Puskar, 2200 Clarendon Blvd., Suite 1300, Arlington, attorney representing the applicant, spoke in favor of the request.

(b) Joe Antunovich, 224 West Huron Street, Chicago, Illinois, with Antunovich Associates, spoke in favor of the request.

(c) David Fromm, 2307 E. Randolph Avenue, representing the Del Ray Citizens Association, said the land use committee is in support of the density transfer. He noted that personally, on the request to relax the requirement for the one-third townhouse, multi-family and stacked townhouses within the entire Yard, it says it "should" include and he thought "should" wasn't as strong as "will" include, and he thought it could be relaxed to one-quarter. He also spoke of the provisions for including group homes.

(d) Lynn Hampton, 215 Park Road, vice chair, Alexandria Economic Development Partnership, speaking for the independent directors of the AEDP, spoke of the fiscal impact of the density transfer, which will result in 11 percent greater property tax revenue, and the AEDP believes that increasing density in the area will help set the stage for achieving a Metrorail station at Potomac Yard.

(e) Andres Domeyko, 1312 Kingston Avenue, spoke in support of ADAM (Alexandrians Delivering Smart Growth Around Metro Stations) of the request.

(f) Poul Hertel, 1217 Michigan Court, spoke against the request and said transportation and planning are found wanting in the report, and office landbays J and L are far from Braddock and it is not irrelevant whether it puts in Metro first or the buildings first. If the buildings come in first, travel and parking patterns will be set for car travel, not Metro uses. He asked what it would do with the 50 percent of the people who don't ride Metro. He spoke of the protection of the visual affects of the George Washington Parkway, yet the height is mentioned as a necessity to accommodate the higher density. He said this process has all the markings of being more political than

analytical.

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

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

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Wilson and carried unanimously, City Council approved the Planning Commission recommendation, with the following amendments: with the amendment submitted by Mid-Atlantic Realty to correct condition 3A to read: Concept Plan Amendment 2008-0001: A preliminary development and/or any associated development and/or zoning applications for Landbay L shall not be submitted for review to the City prior to a comprehensive analysis by the City of Potomac Yard including but not limited to Landbay L and all associated and applicable Master Plan and/or zoning approvals have been approved by the City. In the event the City has not approved all necessary Master Plan and/or zoning approvals as part of the comprehensive review of Potomac Yard including but not limited to Landbay L by **June 1, 2010**, Potomac Yard Development LLC ("PYD"), or its successors shall be permitted to file a development plan for Landbay L which shall be subject to all applicable provisions of the CDD Concept Plan, Transportation Management Plan, Potomac Yard Design Guidelines and Zoning Ordinance. **In no event shall the comprehensive analysis of Landbay L reduce the approved development levels below those resulting from the transfer of density in CDD Concept Plan Amendment #2008-0001.** Master Plan Amendment 2008-0003: "The residential buildings within Potomac Yard shall consist of a variety of buildings types and heights which should include townhouses, stacked-townhomes and multi-family units." Also, to amend condition 3B(d) to read: "unless otherwise determined by the City retail study."

The voting was as follows:

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

14. DEVELOPMENT SPECIAL USE PERMIT #2006-0013

POTOMAC YARD - LANDBAY K

(Potomac Yard is bordered by the Arlington County line to the north, Jefferson Davis Highway to the east, George Washington Parkway to the west and Braddock Road to the south.)

Public Hearing and Consideration of a request for a development special use

permit, with site plan, for a linear park within the Potomac Yard development; zoned CDD #10/Coordinated Development District 10. Applicant: Potomac Yard Development, LLC by Duncan Blair and M. Catharine Puskar, attorneys

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 6/14/08, and is incorporated as part of this record by reference.)

Ms. Haefeli, Planning and Zoning, along with Mr. Kagawa, Recreation, Parks and Cultural Activities, made a presentation of the staff report.

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

(a) Duncan Blair, 524 King Street, attorney representing the applicant, spoke in favor of the request.

(b) Dennis Carmichael, of EDAW, spoke in favor of the request, noting what the park would look like.

(c) David Fromm, 2307 E. Randolph Avenue, representing the Del Ray Citizens Association, spoke in favor of the request.

(d) Kevin Hayes, 713-A Massey Lane, spoke in favor of the request.

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

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

15. SPECIAL USE PERMIT #2008-0027

SPECIAL USE PERMIT #2008-0028

SPECIAL USE PERMIT #2008-0029

2400 POTOMAC AVENUE & 1400 SOUTH MAIN STREET

(Potomac Yard is bordered by the Arlington County line to the north, Jefferson Davis Highway to the east, George Washington Parkway to the west and Braddock Road to the south)

POTOMAC YARD RAIL PARK, PEDESTRIAN BRIDGE AND DOG PARK

Public Hearing and Consideration of approval for a rail park, pedestrian bridge and dog park within the Potomac Yard development per CDD #2007-0001; zoned CDD #10/Coordinated Development District 10. Applicant: Potomac Yard

Development, LLC by M. Catharine Puskar and Duncan Blair, attorneys

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 6/14/08, and is incorporated as part of this record by reference.)

Mr. Farner 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) M. Catharine Puskar, 2200 Clarendon Blvd., Suite 1300, Arlington, attorney representing the applicant, spoke in favor of the request.

(b) Steve Rideout, 710 Fitzhugh Way, spoke in favor of the request, spoke about public access of the property and the bridge easements being vacated and he submitted a petition in support of what he just said.

(c) David Fromm, 2302 E. Randolph Avenue, representing the Del Ray Citizens Association, spoke in favor of the request.

(d) Mary Kendall, 1640 Hunting Creek Drive, president, Old Town Greens Townhome Owners Association, spoke in favor of the request.

(e) Kevin Hayes, 713-A Massey Lane, representing the Old Town Greens Condo Board, spoke in favor of the request.

(f) Thomas C. Farnam, 703 Hawkins Way, spoke in favor of the request.

(g) Lauren Huneke, 1716 Potomac Greens Drive, president, Potomac Greens Homeowners Association, spoke in favor of the request.

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

Krupicka	"aye"	Gaines	"aye"
Smedberg	"aye"	Lovain	"aye"
Euille	"aye"	Smedberg	"aye"
	Wilson	"aye"	

16. CITY CHARTER SECTION 9.06 CASE #2008-0002
322 WESMOND DRIVE

Consideration of a request to sell the subject property in accordance with Section

9.06 of the City Charter; zoned RB/Residential. Staff: Office of Housing

PLANNING COMMISSION ACTION: Approved 6-0

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

(A copy of the Planning Commission report dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 16; 6/14/08, and is incorporated as part of this record by reference.)

City Council received the item.

ORDINANCES AND RESOLUTIONS

The following items were heard together:

17. Public Hearing, Second Reading and Final Passage of an Ordinance to Provide For the Establishment of Fees Not Otherwise Provided For in the City Code, and For the Publication of a Compendium of Fees. (#14, 6/10/08)
[ROLL-CALL VOTE]

(A copy of the City Manager's memorandum dated June 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 17; 6/14/08, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 17; 6/14/08, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 17; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to provide for the establishment of fees not otherwise provided for in the City Code and for the publication of a compendium of fees. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4545

AN ORDINANCE to amend and reordain Chapter 1 (GENERAL PROVISIONS) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding thereto a new Section 3-1-8 (PERMIT AND PROGRAM FEES; COMPENDIUM OF FEES).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 1 of Title 3 of The Code of the City of Alexandria, 1981 as amended, be, and the same hereby is, amended and reordained by adding thereto a new Section 3-1-8 to read as follows:

[THE FOLLOWING IS ALL NEW LANGUAGE]

Sec. 3-1-8 Permit and program fees; compendium of fees.

Except as otherwise expressly provided in this code or in the zoning ordinance, all fees and charges for applications submitted to; for permits and approvals issued by, and for activities, programs and services provided by, the City of Alexandria shall be established by resolution of the city council.

The council by resolution may delegate to the city manager or his designee the authority to establish or adjust specific fees and charges, subject to such requirements and restrictions as the council may provide.

The director of the office of management and budget shall make available to the public in print, and/or publish on the city's web site, and from time to time update, a compendium of all fees and charges collected or imposed by the city pursuant to this code or the zoning ordinance.

It shall be the duty of the director of the office of management and budget, and of the head of every responsible city department or agency, to periodically review such fees and charges on a schedule established by the city manager, and recommend to city council as part of the annual budget process whether any existing fees and charges should be revised, or additional fees and charges established, in order reasonably to recover or offset the associated cost of operations.

Section 2. That this ordinance shall become effective July 1, 2008.

Section 3. That from and after July 1, 2008, the fees and charges established pursuant to this ordinance shall control and preempt any conflicting fees and charges previously in force and effect.

18. Public Hearing, Second Reading and Final Passage of an Ordinance to Increase Towing/Impound fees. (#15, 6/10/08) **[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. 18; 6/14/08, 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. 18; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to increase towing/impound fees. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4546

AN ORDINANCE to amend and reordain Section 5-8-25 (REPOSSESSION OF IMPOUNDED VEHICLES; TOWING AND STORAGE CHARGES), of Article C (DISPOSITION OF ABANDONED, UNATTENDED AND IMMOBILE MOTER VEHICLES), Chapter 8 (PARKING AND TRAFFIC REGULATIONS) 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 Section 5-8-25 of The Code of the City of Alexandria, 1981 as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 5-8-25 Repossession of impounded vehicles; towing and storage charges.

The owner of any vehicle impounded under this article, a person duly authorized by the owner and any person possessing a security interest in the vehicle shall be permitted to repossess the vehicle up to the time of its sale by:

- (1) payment of a towing charge of ~~\$75~~ \$100;

- (2) payment of a storage charge of \$30 per day;
- (3) payment of a charge of ~~\$60~~ \$70 to cover the administrative costs incurred by the city in impounding the vehicle, in learning the identity of the vehicle owner and the holders of a security interest in the vehicle and in conducting the sale; and
- (4) in the case of vehicles identified in section 5-8-22(f), payment of the outstanding parking violation notices for which the vehicle was removed.

Payment of the charges and costs identified in subsection (a) shall not operate to relieve the owner of the impounded vehicle or the owner's agent from liability for any fine or penalty.

Section 2. That this ordinance shall become effective July 1, 2008.

19. Public Hearing, Second Reading and Final Passage of an Ordinance to Increase Fees For Work Permits in the Public Right-of-way. (#16, 6/10/08) **[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. 19; 6/14/08, 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; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to increase fees for work permits in the public right-of-way. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4547

AN ORDINANCE to amend and reordian Section 5-2-146 (FEES, SURCHARGES AND INSPECTION COSTS – PAYMENT REQUIRED), of Division 2 (PERMITS), Article E (EXCAVATION), Chapter 2 (STREETS AND SIDEWALKS) 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 Section 5-2-146 of The Code of the City of Alexandria, 1981 as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 5-2-146 Fees, surcharges and inspection costs – payment required.

It shall be the duty and responsibility of any person to pay the applicable fee as set forth in this article and any surcharge and inspection costs prior to the issuance of a permit pursuant to section 5-2-141.

Notwithstanding the provisions of any other section of this article, the minimum permit and inspection fee for any work covered by this article costing less than \$500 will be \$25; for any work covered by this article costing \$500 or more, the minimum inspection fee will be \$50 shall be established and published pursuant to section 3-1-8 of this code.

Section 2. That this ordinance shall become effective July 1, 2008.

20. Public Hearing, Second Reading and Final Passage of an Ordinance to Increase Fines For Certain Parking Violations.(#17, 6/10/08) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated June 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 20; 6/14/08, 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; 6/14/08, 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; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to increase fines for certain parking violations. The voting was as follows:

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

Wilson "aye"

The ordinance reads as follows:

ORDINANCE NO. 4548

AN ORDINANCE to amend and reordain Section 3-2-354(PENALTIES FOR UNCONTESTED CITATIONS) of Article S (PAYMENT, CONTEST AND ENFORCEMENT OF PARKING CITATIONS), 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 3-2-354 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. 3-2-354 Penalties for uncontested citations.

Any other provisions of this code to the contrary notwithstanding, the penalty for any of the following violations of this code shall, when the citation which was issued for the violation is uncontested, be as follows:

(a) If a payment is tendered to the director of finance within 30 calendar days from the date the citation was issued:

- (1) \$40 for a violation of section 10-4-1, "Stopping contrary to directions of police officers;"
- (2) \$40 for a violation of section 10-4-2, "Permitting vehicle to remain parked contrary to the directions of an official sign;"
- (3) \$40 for a violation of section 10-4-3, "Right to parking space;"
- (4) \$40 for a violation of section 10-4-4, "Stopping so as to obstruct traffic or on crossing;"
- (5) \$40 for a violation of section 10-4-5, "Double parking;"
- (6) \$40 for a violation of section 10-4-6, "Parking trucks or commercial vehicles in residential districts;"
- (7) \$40 for a violation of section 10-4-7, "Parking of vehicles by businesses on streets;"
- (8) \$25 for a violation of section 10-4-8, "Parking for more than 72 continuous hours;"
- (9) \$40 for a violation of section 10-4-9, "Parking trailers or recreational vehicles in residential districts;"
- (10) \$40 for a violation of section 10-4-10, "Parking on sidewalk;"
- (11) \$40 for a violation of section 10-4-11, "Parking in alleys or courts;"
- (12) \$40 for a violation of section 10-4-12, "Parking of vehicles on private property;"

- (13) \$40 for a violation of section 10-4-13, "Stopping for purpose of sale, repairs, etc.;"
- (14) \$40 for a violation of section 10-4-14, "Use of bus stops;"
- (15) \$40 for a violation of section 10-4-15, "Stopping for loading or unloading passengers or cargo generally;"
- (16) \$40 for a violation for section 10-4-16, "Permit for parking truck beside railroad car on public right-of-way;"
- (17) \$40 for a violation of section 10-4-17, "Angle parking for loading and unloading;"
- (18) \$40 for a violation of section 10-4-18, "Use of loading zones;"
- (19) The amount set by order of the Supreme Court of Virginia, pursuant to section 16.1-69.40:1 of the Code of Virginia, as amended, for a violation of subsection (a) of section 10-3-1242, "Parking in spaces reserved for persons with a disability;"
- (20) ~~\$25~~ \$35 for a violation of section 10-4-22, "How meter and space to be used;"
- (21) ~~\$25~~ \$35 for a violation of section 10-4-23, "Overtime parking;"
- (22) ~~\$25~~ \$35 for a violation of section 10-4-24, "Depositing coin in meter for purpose of extending time;"
- (23) ~~\$25~~ \$35 for a violation of section 10-4-25, "Permitting vehicle to remain parked at meter after expiration of time limit;"
- (24) \$40 for a violation of section 10-4-28, "Parking across lines designated parking space;"
- (25) \$40 for a violation of section 10-4-30, "Interfering with enforcement of chapter;"
- (26) \$40 for a violation of section 10-4-33, "Use of metered parking lots by vehicles other than private passenger automobiles;"
- (27) \$40 for a violation of section 10-4-34, "Parking illegally in permit parking districts;"
- (28) \$40 for a violation of section 5-8-114, "Designation of parking spaces; parking across lines;"
- (29) \$40 for a violation of section 10-4-40, "Location of parked vehicles;"
- (30) \$40 for a violation of section 10-4-37, "Failure to procure and display city license plate, windshield tag or decal;"
- (30A) \$40 for a violation of section 10-4-37.1, "Enforcement of the Northern Virginia Local Motor Vehicle License Compact;"
- (31) \$40 for a violation of section 10-4-38, "Parking without display of current state inspection sticker or current state license plate;"
- (32) \$40 for a violation of section 10-4-39, "Temporary parking prohibited;"
- (33) \$40 for a violation of section 9-12-162, "Use of locations other than designated parking spaces by sight-seeing buses;"
- (34) \$40 for a violation of section 9-12-163, "Use of parking spaces designated for use by sight-seeing buses by other vehicles;"
- (35) \$40 for a violation of section 9-12-164, "Use of designated spaces by sight-seeing buses;"
- (36) The amount set by order of the Supreme Court of Virginia, pursuant to section 16.1-69.40:1 of the Code of Virginia, as amended, for a violation of section 10-4-41, "Parking prohibited at certain locations;"
- (37) The amount set by order of the Supreme Court of Virginia, pursuant to section

- 16.1-69.40:1 of the Code of Virginia, as amended, for a violation of section 10-4-42, "Parking prohibited near fire hydrant, etc.;"
- (38) \$40 for a violation of section 10-4-35, "Parking in two-hour parking zones in the central business district;"
 - (39) \$40 for a violation of section 10-4-36, "Removal of chalk marks placed for enforcement purposes;"
 - (40) \$40 for a violation of section 3-2-336, "Offenses relating to city license plate, windshield and decal."

(b) If payment is not tendered to the director of finance with 30 calendar days of the date the citation is issued, a penalty of \$25 in addition to the penalty imposed by subsection (a) for the violation for which the citation was issued; provided, that, in the event the 30th calendar day from the date the citation is issued is a Saturday, Sunday or legal holiday, such additional penalty shall not be imposed if payment is tendered in the amount required by subsection (a) on the next succeeding business day; provided further, that if payment is remitted to the director of finance in a sealed envelope bearing a postmark on or before midnight of the 30th calendar day from the date the citation is issued, no such additional penalty shall be imposed; and provided further, that the director of finance may waive such additional penalty, even though payment has not been tendered or mailed within 30 calendar days of the date the citation was issued, whenever the owner of the vehicle identified in the citation establishes any of the following to the satisfaction of the director:

- (i) that the owner did not find the citation at the time of its issuance on the owner's vehicle and only learned of the citation after the day on which it was issued, and has tendered the required payment with 30 days of first learning of the citation;
- (ii) that, within 30 days after the issuance of the citation or, if later, after first learning of the citation, the owner has made a written request to the director for information concerning the citation, and has tendered the required payment within 30 days of the director's response; or
- (iii) that the owner was medically incapable of making the required payment within 30 calendar days of the date the citation was issued.

Section 2. That this ordinance shall become effective on July 1, 2008.

21. Public Hearing, Second Reading and Final Passage of an Ordinance to Make Technical Changes to the Human Rights Code. (#18, 6/10/08) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated June 6, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 21; 6/14/08, 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; 6/14/08, 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; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to make technical changes to the Human Rights Code. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4549

AN ORDINANCE to amend and reordain Sections 12-4-2 (FINDINGS OF FACT AND DECLARATION OF POLICY), 12-4-3 (DEFINITIONS), 12-4-4 (UNLAWFUL HOUSING PRACTICES), 12-4-5 (UNLAWFUL EMPLOYMENT PRACTICES), 12-4-6 (CITY CONTRACTS), 12-4-7 (HEALTH AND SOCIAL SERVICE PRACTICES), 12-4-10 (EDUCATION), 12-4-12 (HUMAN RIGHTS COMMISSION-CREATION; COMPOSITION), 12-4-13 (ORGANIZATION, MEETINGS, SECRETARY AND CHAIRPERSON OF THE HUMAN RIGHTS COMMISSION), 12-4-14 (HUMAN RIGHTS ADMINISTRATOR), 12-4-15 (POWERS AND DUTIES OF THE HUMAN RIGHTS COMMISSION), 12-4-16 (COMPLAINTS GENERALLY), 12-4-17 (INVESTIGATION AND PROBABLE CAUSE OF COMPLAINT FILED BY A COMPLAINANT), 12-4-18 (CONCILIATION; BREACH OF CONCILIATION AGREEMENT; PROCEDURE; HEARING; DECISION), 12-4-19 (AMENDMENTS TO COMPLAINTS), 12-4-20 (ANSWERS TO COMPLAINTS), 12-4-21 (HEARINGS; DECISIONS), 12-4-22 (INTERLOCUTORY RELIEF), 12-4-23 (JUDICIAL REVIEW), 12-4-24 (JUDICIAL ACTION TO ENFORCE COMMISSION DECISION), 12-4-24.1 (CIVIL PENALTY), 12-4-27 (ADVISORY OPINIONS), 12-4-28 (FORMS), 12-4-29 (CONDITIONS UNDER WHICH CITY ATTORNEY NOT TO REPRESENT COMMISSION, ADMINISTRATOR), 12-4-30 (SEVERABILITY) all of Chapter 4 (HUMAN RIGHTS), Title 12 (EDUCATION, SOCIAL SERVICES AND WELFARE) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 12-4-2 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. 12-4-2 Findings of fact and declaration of policy.

(a) *Findings.* The City Council of the City of Alexandria, Virginia, having conducted public hearings finds:

(1) The population of the City of Alexandria consists of people of different races, colors, sexes, religions, ancestries, national origins, marital statuses, familial statuses, ages, sexual orientations and disabilities, many of whom, because of their race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability, in some instances have been unjustly discriminated against with respect to housing, employment, public accommodations, health and social services, education, credit or City contracts.

(2) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability with respect to housing causes, at least in part, circumscribed and segregated areas within the City and deprives many persons of the opportunity to live in the City or the opportunity to live in decent housing.

(3) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability with respect to employment denies job opportunities to many citizens of Alexandria and causes depressed living conditions.

(4) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability in places of public accommodation causes embarrassment and inconvenience to citizens and visitors of the City and is detrimental to the welfare of the City.

(5) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability with respect to credit, credit-related services or credit ratings arbitrarily denies financial opportunities and purchasing power to many citizens.

(6) Discrimination because of race, color, sex, religion, ancestry, national origin, sexual orientation or disability with respect to education denies appropriate role models and career and athletic opportunities to the students, teachers and administrative staff.

(7) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability with respect to health and social services is detrimental to the health of many citizens and deprives many needy and unfortunate citizens of the bare essentials of life.

(8) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status, age or disability with respect to City contract employment denies job opportunities to many citizens and causes depressed living conditions.

(9) Discrimination because of race, color, sex, religion, ancestry, national origin, marital status, familial status, age or disability is contrary to the law of the United States of America and the spirit of the Constitution of Virginia.

(10) It is in the public interest and in furtherance of the welfare and well being of all citizens of Alexandria, Virginia, to assure that each citizen is treated fairly, provided equal protection of the law and afforded full and equal opportunity to enjoy life, liberty, property and the pursuit of happiness.

(11) The conditions set forth in subsections (1) through (9) above have caused or are capable of causing or encouraging crime, riots, disturbances, disorders, delinquency, breach of peace, fires, poverty, slums, blighted areas, overcrowding, unhealthy and unsanitary conditions, disease, increased mortality, unstable family life, increased cost of government, excessive public assistance problems, unemployment, loss of manpower, loss of womanpower, loss of tax revenue, and loss of trade, commerce, business and productivity.

(b) *Policy.* The City Council of the City of Alexandria, Virginia, hereby declares:

(1) That it is contrary to the policy of the City to permit the conditions mentioned in this section to exist or to arise.

(2) That it is the duty and policy of the City to exercise all available means and every power it possesses to protect the City and its citizens from such conditions and from the undesirable results that have been or may be caused or encouraged by the existence of such conditions.

(3) That, except as hereinafter provided, it is and shall be the policy of the City, in the exercise of its police power and all other powers it may possess, to protect the safety, health, peace, good order, comfort, convenience, morals and welfare of its inhabitants, to assure all persons the opportunity to obtain housing, public accommodations, employment, health and social services, credit, education and City contracts without regard to race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability.

(4) That to carry out these goals and policies it is and shall be the policy of the City generally, except as hereinafter provided, to prohibit discrimination because of race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability with respect to housing, public accommodations, employment, health and social services, credit, education and

City contracts.

Section 2. That Section 12-4-3 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. 12-4-3 Definitions.

(a) *Affirmative action employment program.* A positive program designed to ensure that a good faith effort will be made to employ applicants without regard to race, color, sex or disability. Such program, to be developed by the Commission and approved by City Council, shall include, where applicable, but shall not be limited to, the following: recruitment and recruitment advertising, selection and selection criteria, upgrading, promotion, demotion or transfer, lay-off or termination, rates of pay or other forms of compensation, other terms or conditions of employment and selection for training, including apprenticeship, and shall include realistic and attainable goals, methodology and timetable for implementation of the program.

(b) *Age.* Unless stated or the context clearly indicates otherwise, the word "age" as used in this chapter shall refer exclusively to persons who are 18 years of age or older.

(c) *Commercial real estate.* Land or any improvement thereon, or both, or an interest in land or any improvement thereon, that is offered for sale or lease and that is being utilized, or may be utilized, by a commercial or industrial use under the City of Alexandria Zoning Ordinance, whether such use is a permitted or special use. The fact that some alterations to land or improvements, or both, must be made after the sale or lease is completed, or that permits, licenses or other approvals are necessary after the sale or lease to put the land or improvements into an actual commercial or industrial use shall not preclude the land or improvements from constituting commercial real estate.

(d) *Commission.* The Human Rights Commission created by section 12-4-15 of this chapter.

(e) *Complainant.* Any person filing a complaint or on whose behalf a complaint is filed by the Human Rights Director pursuant to this chapter.

(f) *Credit.* The right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(g) *Disability.* A physical or mental impairment which substantially limits one or more major life activities. "Physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological;

musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic or lymphatic; skin and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(h) *Discriminate, discrimination, discriminatory practice.* Any arbitrary difference in treatment based on membership in a protected class not permitted by this chapter, including harassment.

(i) *Educational institution.* Any nursery, day care center, kindergarten, elementary or secondary school, academy, college, university, extension course or nursing, secretarial, business, vocational, technical, trade or professional school or joint apprenticeship program.

(j) *Employer.* Any person who employs four or more employees for wages, salaries or Commission within the City, exclusive of parents, spouse or children, and excluding any bona fide religious, fraternal or sectarian organization not supported in whole or in part by governmental appropriations.

(k) *Employment agency.* Any person regularly undertaking with or without compensation to advertise for or otherwise procure opportunities to work or to procure, recruit, refer or place employees.

(l) *Familial status.* One or more individuals who have not attained the age of 18 years and who are domiciled with:

(1) parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The term "familial status" shall also apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. The provisions regarding familial status do not apply with respect to housing for older persons.

(m) *Family.* One or more individuals living together on the premises as a single housekeeping unit.

(n) *Harassment.* Any verbal or physical conduct that denigrates or shows hostility toward an individual because of his or her race, color, religion, gender, national origin, age, disability, marital status or sexual orientation.

(o) *Health or social service agency.* Any person rendering health or social services. The term includes but is not limited to any hospital, clinic, dispensary, nursing home, convalescent home, rehabilitation center, social work agency, community service center, group work-recreation center, counseling and guidance services agency, day camp or resident camp, protective service organization or facility; but except for a hospital, clinic or dispensary, this term shall not include any health or social service agency operated, supervised or controlled by or in conjunction with a religious organization, association or society exclusively or primarily for members of its own faith.

(p) *Housing.* Any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(q) *Human Rights Director.* That person appointed pursuant to section 12-4-14 of this chapter.

(r) *Labor organization.* Any organization which exists for the purpose in whole or in part of collective bargaining or of dealing with employers on behalf of employees concerning grievances, terms or conditions of employment, or of other mutual aid or protection in relation to employment.

(s) *Lending institution.* Any person, including but not limited to a bank, insurance company or savings and loan association, regularly engaged in the business of lending money, guaranteeing loans or furnishing consumer credit or other credit-related services.

(t) *Owner.* Any person, including but not limited to a lessee, sublessee, assignee, manager or agent, and also including the City and its departments, boards, Commissions, authorities, committees and agencies, having the right of ownership or possession or the authority to sell or rent any dwelling.

(u) *Pattern or practice of discrimination.* Any event, course of conduct or way of doing business with respect to housing, employment, public accommodations, credit, health and social services or City contracts which happens on several occasions and which actually or predictably results in different treatment which is discriminatory on the basis of race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability.

(v) *Person with a disability.* Any person who has a disability, as defined above, or has a record of such impairment, or is regarded as having such an impairment. "Has a record of such impairment" means has a history of, or has

been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities. "Is regarded as having such an impairment" means: (i) has a physical or mental impairment that does not substantially limit major life activities but is treated by a respondent as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) has none of the impairments defined under "disability" above but is treated as having such an impairment by any person within the jurisdiction of this chapter. Notwithstanding any contrary provision in this chapter, the term "person with a disability" shall not include any person who engages in the current, illegal use of a controlled substance, as defined in Virginia or federal law.

(w) *Public accommodation.* Includes every business, professional or commercial enterprise, refreshment, entertainment, sports, recreation or transportation facility in the City, whether licensed or not, public or private, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available in any manner to the general public. Public accommodation does not include a bona fide private club or other establishment not in fact open to the general public.

(x) *Public funds.* Any funds derived from any governmental body or agency.

(y) *Qualified person with a disability.* (i) With respect to employment, a person with a disability, who with reasonable accommodation, can perform the essential functions of the job in question; and (ii) with respect to other services, a person with a disability who meets the essential eligibility requirements for the receipt of such services.

(z) *Real estate broker.* Any person, who for a fee or other valuable consideration, manages, sells, purchases, exchanges, rents or negotiates, or offers or attempts to negotiate the sale, purchase, exchange or rental of the real property of another, or holds himself or herself out as engaged in the business of managing, selling, purchasing, exchanging or renting the real property of another, including real estate salespersons, agents or any other persons employed by a real estate broker to perform or to assist in the performance of his or her business.

(aa) *Respondent.* Any person against whom a complaint is filed pursuant to this chapter.

(bb) *Restrictive covenant.* For purposes of this chapter, this is a provision written into a deed, lease, mortgage, deed of trust or contract that bars any person from owning or occupying housing on the basis of race, color, sex, religion, ancestry, national origin, familial status, age, sexual orientation or

disability.

(cc) *Sexual orientation.* Having a preference for heterosexuality, homosexuality or bisexuality, having a history of such a preference or being identified with such a preference.

(dd) *To rent.* Includes to lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Section 3. That Section 12-4-4 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. 12-4-4 Unlawful housing practices.

(a) *Unlawful housing practices--sale or rental.* Except as provided in subsection (e) of this section, it shall be unlawful for any person:

(1) to refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, or otherwise to make unavailable or deny housing to any person, because of race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability.

(2) to discriminate against any person in the terms, conditions or privileges of sale or rental of housing, or in the provision of services or facilities in connection therewith, because of race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability.

(3) to make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of housing, that indicates any preference, limitation or discrimination based on race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability, or an intention to make any such preference, limitation or discrimination.

(4) to represent to any person because of race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability, that any housing is not available for inspection, sale or rental, when the housing is in fact so available.

(5) for profit, to induce or attempt to induce any person to sell or not sell, or to rent or not rent any housing by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability.

(6) except in connection with a written affirmative action plan, to make an oral inquiry or to use a written inquiry or form of application or photograph, as a condition of the transaction in connection with the sale or rental of housing that elicits or attempts to elicit information concerning race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability.

(7) to discriminate in the sale or rental of, or to otherwise make unavailable or deny, housing to any buyer or renter because of a disability of the buyer or renter, of a person residing in or intending to reside in the housing after it is sold, rented or made available, or of any person associated with the buyer or renter.

(8) to discriminate against any person in the terms, conditions, or privileges of sale or rental of housing, or in the provision of services or facilities in connection with such housing, because of a disability of the person, of a person residing in or intending to reside in the housing after it is sold, rented or made available, or of any person associated with the person.

(9) for purposes of sub-subsections (7) and (8), discrimination shall include:

a. a refusal to permit, at the expense of a person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications are necessary to afford such person full enjoyment of the premises;

b. a refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy housing; or

c. in connection with the design and construction of covered multifamily housing, as defined in Virginia or federal law, for initial occupancy after April 1, 1991, a failure to design and construct the housing in such a manner that:

(i) the public use and common use portions of the housing are readily accessible to and usable by persons with disabilities;

(ii) all the doors designed to allow passage into and within all premises within the housing are sufficiently wide to allow passage by persons with disabilities in wheelchairs; and

(iii) all premises within the housing contain an accessible route into and through the housing, light switches, electrical outlets, thermostats and other environmental controls in accessible locations, reinforcements in bathroom walls to allow later installation of grab bars and usable kitchens and bathrooms such

that an individual in a wheelchair can maneuver about the space.

(10) Nothing in subsections (7), (8) and (9) requires that housing be made available to an individual whose tenancy would constitute a direct threat to the health or safety of others or would result in substantial physical damage to the property of others.

(11) For purposes of this subsection, discrimination because of or on the basis of age shall mean discrimination against a person who is 55 years of age or older because of or on the basis of that person's age.

(b) *Unlawful housing practices*

(1) a. It shall be unlawful for any lending institution to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining housing, or to discriminate against him or her in the fixing of the amount, interest rate, duration or other terms or conditions of the loan or other financial assistance because of the race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability of such person.

b. It shall also be unlawful for any lending institution to deny a loan or other financial assistance because of the race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability of the present or prospective owners, lessees, tenants or occupants of the housing in relation to which the loan or other financial assistance is to be made or given.

c. It shall also be unlawful for any lending institution to deny such a loan or other financial assistance to any person because of the race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability of any person associated with such person in connection with the loan or other financial assistance or the purposes of the loan or other financial assistance.

(2) It shall also be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to discriminate against any person applying for a loan or other financial assistance, the proceeds of which are to be used for the purchase, construction, improvement, repair or maintenance of housing by:

a. denying a loan or other financial assistance because of the race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability of the residents of the neighborhood in which the housing is located; or

b. discriminating in fixing of the amount, interest rate, duration or other terms or conditions of a loan or other financial assistance, because of the race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability of the residents of the neighborhood in which the housing is located.

c. *Unlawful housing practices--brokerage services.*

(1) It shall be unlawful for any person to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting housing, or to discriminate against any person in the terms or conditions of such access, membership or participation, on account of race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability of such persons.

(2) It shall be unlawful for any real estate broker or salesperson or other person in the business of selling or renting housing to solicit the sale or rental of housing or discourage the purchase or rental of housing by representations regarding the existing or potential proximity to real property owned, used or occupied by a person or persons of a particular race, color, sex, ancestry, national origin, marital status, familial status, age, sexual orientation or disability.

(d) *Unlawful housing practices--restrictive covenants, as defined.*

(1) It shall be unlawful for any person who prepares or supervises the preparation of any deed, mortgage, deed of trust, lease or contract affecting title to or any interest in land or housing in the City willfully and knowingly to include therein any restrictive covenant that discriminates on the basis of race, color, sex, religion, ancestry, national origin, familial status, age, sexual orientation or disability, except that nothing in this subsection shall be construed to prohibit any person from conveying, or preparing any legal document for any conveyance of housing or land to a religious organization for use only by members of such religious organization.

(2) It shall be unlawful for any person who prepares or supervises the preparation of any deed, mortgage, deed of trust, lease or contract affecting title to or any interest in land or housing in the City, wherein any restrictive covenant prohibited by subsection (1) above is incorporated by reference to another document or instrument, to fail to include therein a statement that such restrictive covenant is invalid and unenforceable.

(3) The Clerk of the Circuit Court for the City of Alexandria, Virginia, is hereby authorized and directed:

a. to post in a conspicuous location in the clerk's office and in the land record room the following notice printed in 14-point type:

Alt is a violation of the Human Rights Code of the City of Alexandria, Virginia, for any person to include any provision in a deed, mortgage, deed of trust, lease or contract affecting title or any interest in land which purports to restrict or affect on the basis of race, color, sex, religion, ancestry, national origin, familial status, age, sexual orientation or disability the holding, occupancy or transfer of any interest in land, and any such provisions are invalid and unenforceable.@

b. when a copy of any deed, mortgage, deed of trust, lease or contract affecting title or interest in land or housing recorded in the clerk's office is requested, to affix to such copy a statement that any provision contained in such legal instrument which purports to restrict or affect the holding, occupancy, ownership, rental, lease or transfer of any interest on the basis of race, color, sex, religion, ancestry, national origin, familial status, age, sexual orientation or disability is invalid or unenforceable.

(e) *Exemptions and exceptions.*

(1) Nothing in section 12-4-4 shall prohibit a religious organization, association or society, or any nonprofit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting or from advertising the sale, rental or occupancy of housing which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(2) Nothing in section 12-4-4 other than subsection (3) of subsection (a) shall apply to:

a. any single-family house sold or rented by an owner; provided, that the private individual owner does not own more than three such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any 24-month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any rights to all or a portion of the proceeds from the sale

or rental of more than three single-family houses at any one time; provided further, that the owner sells or rents the following:

1. without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or sales person, or of such facilities or services of any person in the business of selling or renting housing, or of any employee or agency of any such broker, agent, salesperson or person, and

2. without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of subsection (3) of subsection (a) of this section; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title, or

- b. rooms or units in housing containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of the living quarters as his or her residence, provided that the owner sells or rents the rooms or units:

1. without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson, or of such facilities or services of any person in the business of selling or renting housing, or of any employee or agency of any such broker, agent, salesperson or person, and

2. without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of subsection (3) of subsection (a) of this section, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other professional assistance as necessary to perfect or transfer the title.

For the purposes of this subsection (e)(2), a person shall be deemed to be in the business of selling or renting housing if:

- a. he or she has, within the preceding 12 months, participated as principal, other than in the sale of his or her own personal residence, in providing sales or rental facilities or sales or rental services in three or more transactions involving the sale or rental of any housing or any interest therein;

- b. he or she has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence, in providing the sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any housing or any interest therein; or

c. he or she is the owner of any housing designed or intended for occupancy by, or occupied by, five or more families.

(3) Nothing in section 12-4-4 shall be construed to:

a. bar any person from restricting sales, rentals, leases or occupancy, or from giving preference, to persons of a given age for bona fide housing intended solely for the elderly or bona fide housing intended solely for minors;

b. make it an unlawful act to require that a person have legal capacity to enter into a contract or lease;

c. prohibit any private, state-owned or state-supported educational institution, hospital, nursing home, or religious or correctional institution from requiring that persons of both sexes not occupy any single-family residence or any room or unit in dwellings or other buildings which it owns or operates or that persons of both sexes not utilize any rest room in said room or unit in dwellings or other buildings which it owns or operates;

d. bar any person from refusing a loan or other financial assistance to any person whose life expectancy, according to generally accepted mortality tables, is less than the term for which the loan is requested;

e. forbid distinctions based on the inability to fulfill the terms or conditions including financial obligations of any such lease, contract of sale, deed or mortgage.

(4) a. Nothing in section 12-4-4 regarding unlawful discrimination because of familial status shall apply to housing for older persons.

b. As used in this section, "housing for older persons" means housing:

(i) provided under any state or federal program that is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or

(ii) intended for, and solely occupied by, persons 62 years of age or older; or

(iii) intended and operated for occupancy by at least one person 55 years of age or older per unit.

c. The following factors will be considered in determining whether housing qualifies as "housing for older persons@;

(i) the housing contains significant facilities and services specifically

designed to meet the physical or social needs of older persons or, if the provision of such facilities and services is not practicable, the housing is necessary to provide important housing opportunities for older persons; and

(ii) 80 percent or more of the units are occupied by at least one person 55 years of age or older; and

(iii) the publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing primarily for persons 55 years of age or older.

d. Housing shall not fail to constitute "housing for older persons" by reason of:

(i) persons residing in the housing as of February 23, 1991, who do not meet the age requirements of subsections (4)a(ii) or (iii); provided, that new occupants of such housing meet these age requirements; or

(ii) unoccupied units; provided, that such units are reserved for occupancy by persons who meet these age requirements.

5. Nothing in section 12-4-4 prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance.

Section 4. That Section 12-4-5 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. 12-4-5 Unlawful employment practices.

(a) except as provided in subsection (b) of this section, it shall be unlawful:

(1) for any employer to fail or refuse to hire or to discharge any person or otherwise to discriminate against any person with respect to hiring, tenure, compensation, promotion, discharge or any other terms, conditions or privileges directly or indirectly related to employment because of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability, when such person is a qualified person with a disability;

(2) for any employer, employment agency or labor organization to establish, announce or follow a policy of denying or limiting the employment, membership or apprenticeship opportunities of any person on the basis of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability, when such person is a qualified person with a disability;

(3) for any employer, labor organization, employment agency or any joint labor management committee controlling apprentice training programs to deny to or withhold from any person the right to be admitted to or to participate in a guidance program, an apprenticeship training program, an on-the-job training program or any other occupational training program because of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability, when such person is a qualified person with a disability;

(4) for any employer, employment agency or labor organization to publish or circulate, or to cause to be published or circulated with intent to circumvent the spirit and purpose of this section, any notice or advertisement relating to employment or membership which indicates any preference, limitation or discrimination based on race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability, when such person is a qualified person with a disability, or an intention to make any such preference, limitation or discrimination;

(5) for any employment agency to fail or refuse to accept, register, classify properly or refer for employment or otherwise to discriminate against any person because of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability, when such person is a qualified person with a disability;

(6) for any labor organization to discriminate against any person in any way which would deprive or limit his or her employment opportunities or otherwise adversely affect his or her status as an applicant for employment or as an employee with respect to hiring, seniority, tenure, referral, compensation, promotion, discharge or any other terms, conditions or privileges directly or indirectly related to employment because of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability, when such person is a qualified person with a disability;

(7) for any employer, employment agency or labor organization to discriminate against any person because he or she has opposed any practice forbidden by this section or because he or she has made a complaint or testified or assisted in any manner in any investigation or proceeding under this chapter relating to the provisions of this section;

(8) for any employer to deny any employment opportunity to a qualified person with a disability who is an employee or applicant if the basis for the denial is the need to make reasonable accommodations to the physical or mental limitations of the employee or applicant.

(9) for purposes of subsections (a)(1) through (a)(6), discrimination because of or on the basis of age shall mean discrimination against a person who is 40 years of age or older because of or on the basis of that person's age.

(b) exceptions. Nothing in subsection (a) of this section shall apply to:

(1) any type of employment, occupation, or position where the job involves a bona fide occupational qualification requiring the employment of a person or persons of a particular religion, sex, ancestry, national origin, marital status, age, sexual orientation or physical or mental capabilities, where the qualification is reasonably necessary to the normal operation of that business or enterprise;

(2) any employment practice based upon applicable laws or regulations established by the United States or any agency thereof, the Commonwealth of Virginia, or any political subdivision of the Commonwealth having jurisdiction in the City of Alexandria;

(3) the observance of the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of this section, except that no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual who is at least 40 years of age or older because of the age of such individual;

(4) agreements or contracts concerning contribution rates for employer or employee for group insurance, when the contribution rate may be affected by marital status or number of dependents;

(5) any employment agency providing services only to elderly persons or to minors; provided, however, that no employment agency may discriminate on the basis of race, color, sex, religion, ancestry, national origin, marital status, sexual orientation or disability; and

(6) notwithstanding any other provisions of this section, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability, nor shall it be an unlawful employment practice for any employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability.

(c) Affirmative action employment program. The City Manager shall establish an affirmative action employment program for the City and shall report to the City Council regarding the status of same annually.

Section 5. That Section 12-4-6 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. 12-4-6 City contracts.

(a) Any contract of over \$10,000, except any contract for the sale, purchase or rental of land, to which the City is a party shall include substantially the following provisions:

"Employment Opportunity. The contractor hereby agrees:

"(1) Not to discriminate against any employee or applicant for employment on account of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation, disability, when such person is a qualified person with a disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

"(2) To implement an affirmative action employment program as defined in section 12-4-3 of this chapter to ensure nondiscrimination in employment under guidelines to be developed by the Commission and approved by the City Council.

"(3) To include in all solicitations or advertisements for employees placed by or on behalf of the contractor the words "Equal Opportunity Employer" or a symbol, approved by the Commission, meaning same.

"(4) To notify each labor organization or representative of employees with which said contractor is bound by a collective bargaining agreement or other contract of the contractor's obligations pursuant to this equal employment opportunity clause.

"(5) To submit to the City Manager and the City's Human Rights Director, upon request, no more frequently than annually, regular equal employment opportunity reports on a form to be prescribed by the City's Human Rights Director with the approval of the City Manager, except that the Director may request more frequent special reports of particular employers provided the Commission has found such employers to have violated any provision of this chapter.

"(6) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this subsection.

"(7) To make reasonable accommodation to the known physical or mental limitations of an otherwise qualified person with a disability who is an applicant or

employee unless the contractor can demonstrate that the accommodation would impose an undue hardship on the operation of its business.

"(8) That for the purpose of this section reasonable accommodation may include (i) making facilities used by employees readily accessible to and usable by persons with a disability and (ii) job restructuring, part-time or modified work schedules, acquisitions or modification of equipment or devices, the provision of readers or interpreters and other similar actions.

"(9) That in determining whether an accommodation would impose an undue hardship on the operation of the contractor's business, factors to be considered include but are not limited to the following:

"a. the overall size of the contractor's business with respect to the number of employees, the number and type of facilities and size of budget;

"b. the type of the contractor's operation, including the composition and structure of the contractor's work force; and

"c. the nature and cost of the accommodation needed.

"(10) That it may not deny any employment opportunity to a qualified person with a disability who is an employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

"(11) To include the provisions in subsections (1) through (10) of this clause in every subcontract so that such provisions will be binding upon each subcontractor.

"(12) That in the event of the contractor's noncompliance with any provision of this equal employment opportunity clause, upon a finding of such noncompliance by the City's Human Rights Commission and certification of such finding by the City Manager, the City Council may terminate or suspend or not renew, in whole or in part, this contract."

(b) The Director is hereby authorized to:

(1) review the performance of any contractor who has a contract with the City with respect to the provisions of subsection (a) above;

(2) request equal employment opportunity reports, including but not limited to statistical data, from any contractor pursuant to subsection (a)(5) above; and

(3) upon a finding of probable cause to believe a violation of any provision of subsection (a) above has occurred, file a complaint with the Commission

pursuant to section 12-4-16 of this chapter.

(c) The Commission is hereby authorized to:

(1) review any complaint filed by the Director pursuant to subsection (b) above in accordance with procedures set forth in this chapter; and

(2) upon a finding of the Commission that any contractor is in noncompliance with the provisions of subsection (a) above, the Commission shall report the findings to the City Manager.

(d) The City Manager. If the City Manager certifies the finding to the City Council the City Manager shall, unless City Council directs otherwise, terminate or suspend or not renew, in whole or in part, as appropriate, the contractual relationship with the contractor; provided, however, that the City Manager may defer temporarily a suspension or termination if he or she finds that the suspension or termination may disrupt or curtail a vital public service, or would otherwise not be in the best interests of the city, in which case the City Manager shall report his or her action to the City Council and indicate a date certain when the relationship will be suspended or terminated, or when the practice complained about will be remedied.

Section 6. That Section 12-4-7 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. 12-4-7 Health and social service practices.

(a) *Private health and social services practices.* It shall be unlawful for any private health or social service agency:

(1) to discriminate against any person by refusing, denying or withholding from him or her any of the services, programs, benefits, facilities or privileges of any health and social program or service, or to discriminate in the quality of services offered through such programs because of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability;

(2) to discriminate against any person, in the setting of rates or charges for any of the services, programs, benefits, facilities or privileges of any agency because of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability; or

(3) to discriminate against any person by communicating, publishing, advertising or representing that any of the services, programs, benefits, facilities or privileges of any health or social service agency are withheld from or denied to any person because of race, color, sex, religion, ancestry, national origin, marital

status, age, sexual orientation or disability.

(b) *Exceptions.* Nothing in subsection (a) of this section shall apply to any health or social service or practice:

(1) that reasonably relates only to a particular sex, religion, national origin, marital status, age, sexual orientation or disability;

(2) with respect to which sex, religion, national origin, marital status, age, sexual orientation or disability is usually and normally considered an essential qualification or requirement for such service.

(c) *Public health and social services practices.* The Commission is hereby authorized to conduct studies, hold hearings and review the policies and practices of any public health and social service agency with respect to the provisions in subsection (a) of this section. The Commission shall report its findings to the City Council and City Manager and may, at its discretion, enter into negotiations with any such agency, other than a City agency, to rectify any discriminatory policies or practices that may exist. In the case of a City agency, the Commission may, at its discretion, develop with the City Manager a plan to rectify any discriminatory policies or practices that may exist.

(d) *Public health or social service agencies.*

(1) No qualified person with a disability shall, because a public health or social service agency has facilities which are inaccessible to or unusable by persons with a disability, be denied the benefits of, be excluded from participation in or otherwise be subjected to discrimination under any program or activity provided by such public health and social service agencies.

(2) Any existing public health or social service facility shall be made accessible to persons with a disability by making structural changes or by other means such as redesign of equipment, reassignment of services to accessible buildings or alternate sites, assignment of aides to persons with a disability, providing home visits or other appropriate methods.

Section 7. That Section 12-4-10 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. 12-4-10 Education.

(a) Private education. It shall be unlawful for any private educational institution, or its agents, employees or officers, on the basis of race, color, sex, ancestry, national origin, sexual orientation or disability;

(1) to discriminate against any person with respect to the terms, conditions, accommodations, advantages, facilities, benefits, privileges or services of that institution;

(2) to make or use a written or oral inquiry or form of application for admission to an educational institution that elicits or attempts to elicit information concerning race, color or disability, except as required to obtain grants or other funds from a public or private institution or agency;

(3) except in connection with a written affirmative action plan, to require, or cause to be required, that a photograph of an applicant for admission to an educational institution be submitted with any form of application for admission;

(4) to establish, make or follow a policy of denial or limitation of educational opportunities;

(5) to permit potential employers to recruit students on its premises or to permit the employers to use its placement facilities for referral of students for employment or permit the employers to participate in any job-training or work-study program operated by or in conjunction with the educational institution unless the potential employer has submitted to the educational institution a statement certifying that the employer is an equal opportunity employer;

(6) to deny to any member of its student body educational services or facilities that are generally available to members of the opposite sex;

(7) to fail to provide services to persons with a disability which are provided to persons without a disability;

(8) to fail to provide services to a person with a disability who meets the academic and technical standards requisite to admission or participation in a postsecondary and vocational education program or activity; or

(9) to subject any member of its faculty or staff to a discriminatory practice stated as unlawful under subsections (1) through (8) of this subsection.

(b) Nothing in subsection (a) of this section shall be construed to make unlawful any private institution established exclusively for either all males or females or to interfere with the exercise of genuinely held religious beliefs by educational institutions organized for the primary purpose of preparing men and women for the ordained ministry.

(c) Public education. The Commission is hereby authorized to conduct studies, hold hearings and review the policies and practices of any public educational institution with respect to race, color, sex, religion, ancestry, national origin,

religion, sexual orientation or disability. The Commission shall report its findings to the appropriate policy-making body and chief administrator of the public educational institution (for instance the school board and superintendent of public schools in the City or to the president of the Northern Virginia Community College and the community college board or to the policy-making body and chief administrator of any other public educational program) and may, at its discretion, enter into negotiations with said policy-making body and chief Director to rectify and any discriminatory policies or practices that may exist.

Section 8. That Section 12-4-12 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. 12-4-12 Human Rights Commission--creation; composition.

For the purpose of making effective the provisions of this chapter, there is hereby created a Commission of the City of Alexandria, Virginia, to be known as the "Human Rights Commission," herein referred to as the Commission, which shall consist of 14 members, each of whom shall reside in the City at the time of appointment to the Commission and while serving on it. They also shall be as broadly representative of residents of the City as is practicable. Of the 14 members, nine shall be citizens at large and one each shall be members of The Economic Opportunities Commission, The Commission For Women, The Landlord-Tenant Relations Board, The Commission For Persons With Disabilities and The Commission On Aging. All the members shall be appointed by City Council. The members representing the aforementioned City boards and Commissions shall be nominated by the board or Commission each represents. Of the at-large members first appointed, as decided by lot, three shall be appointed for a term of one year, three for a term of two years and three for a term of three years. Thereafter, at-large members shall be appointed for terms of three years each. Any vacancy shall be filled by the City Council for the unexpired portion of a term. Each member representing a board or Commission shall serve coextensive with his or her term on the parent body, or until such time as the parent body shall nominate and the City Council shall appoint a replacement from among the members of the parent body, but under no circumstances shall any member serve on the Commission beyond his or her term on the parent body. Members shall serve without compensation but may receive reimbursement for expenses, subject to availability of funds. On the request of any board, Commission or committee of the City, the Commission may invite a designated representative from such board, Commission or committee to act as a participating observer at any meeting of the Commission other than a hearing under sections 12-4-18 or 12-4-21 of this chapter. Also on request, the Commission may provide agendas and minutes of any meeting and any other official document, except for conciliation agreements, to any other public agency, board, Commission, committee or the general public.

Section 9. That Section 12-4-13 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. 12-4-13 Organization, meetings, secretary and chairperson of the Human Rights Commission.

- (a) All meetings of the Commission shall be open to the public to the extent required by state law and a full and impartial hearing shall be granted on all matters. The Commission shall hold at least 10 monthly meetings during the calendar year. Insofar as reasonably possible, all hearings shall be informal.
- (b) The City Council shall designate a convener and the Commission shall elect one of its members as chairperson, another of its members as vice-chairperson and such other officers as the Commission may deem necessary. The Commission shall designate a secretary among its members or staff as it sees fit. The secretary to the Commission shall cause minutes of its proceedings to be kept and all findings and decisions to be reduced to writing and entered as a matter of public record in the Office of the Director.
- (c) All meetings of the Commission shall be held in facilities which are accessible to persons with a disability and, where a person with a disability attends a meeting and so requests in advance, the Commission shall make reading or interpretive services available for the blind or deaf, as appropriate.
- (d) In matters concerning the procedure for meetings not covered by this chapter, the Commission may establish its own rules; provided these are not contrary to the mandate or spirit of this chapter. The Commission shall annually prepare and submit a budget to the City Manager.

Section 10. That Section 12-4-14 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. 12-4-14 Human Rights Director.

- (a) There is hereby established the position of Human Rights Director. The City Manager shall appoint a person to the position of Human Rights Director, who shall be a member of the City Manager's staff, upon consideration of the recommendations of the Commission with respect to the appointment. The Human Rights Director shall report to the City Manager and may be removed for cause by the City Manager.
- (b) The Human Rights Director shall be responsible for carrying out the policies of the Commission and performing the duties assigned to him or her by this chapter, negotiating contracts or worksharing agreements with the Equal Employment Opportunity Commission, the Department of Housing and Urban Development or other appropriate federal or state agencies and performing the

duties assigned by these contracts and work sharing agreements. The Director shall have the power and duty to make investigations of unlawful discriminatory practices under this chapter, and to file complaints with the Commission when he or she has probable cause to believe that an unlawful discriminatory practice has occurred. The Director shall further have the power and duty to attempt to conciliate any complaint of alleged unlawful discrimination under this chapter where there is probable cause for the complaint.

Section 11. That Section 12-4-15 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. 12-4-15 Powers and duties of the Human Rights Commission.

(a) *Powers and duties.* The Commission shall administer the provisions of this chapter as stated above and shall have the following powers and duties:

(1) Receive complaints alleging actions or conduct that are unlawful under this chapter, as well as grievances alleging other actions or conduct that constitute discrimination where the complainant is only seeking the Commission's good offices to conciliate.

(2) Utilize methods of persuasion, conciliation and mediation or informal grievances; hold public hearings; and, in the case of complaints alleging actions or conduct that are unlawful under this chapter, make findings of fact, issue orders and make recommendations pursuant to section 12-4-21, and make public the findings, orders and recommendations.

(3) Conduct studies and hold public hearings on discrimination against persons with a physical or mental disability, in concert with the Commission on Persons With Disabilities and the Alexandria Community Services Board, to explore local legislative proposals in the areas of employment, credit, education, health and social services, public accommodations and housing.

(4) Conduct studies and hold hearings on social conditions that may cause discrimination on the basis of race, color, sex, religion, ancestry, national origin, marital status, familial status, age, sexual orientation or disability that is prohibited by this chapter. Gather and disseminate reliable information by issuing publications and reports of studies and research relating to such discrimination.

(5) Institute and conduct educational and informational programs with wide sectors of businesses, unions, professions, agencies and organizations to promote equal rights and opportunities for all persons and to promote understanding among persons and groups of different races, colors, sexes, religions, ancestries, national origins, marital statuses, familial statuses, ages, sexual orientations or disabilities.

- (6) Assist in developing, negotiating and reviewing voluntary fair housing affirmative action agreements as mandated by the City Council in resolution no. 355, adopted on November 26, 1974, and develop and review other voluntary affirmative action programs.
- (7) Review the City's affirmative action employment program and the performance of the City government, its contractors and subcontractors in employment policies and practices as they may relate to discrimination because of race, color, sex, religion, ancestry, national origin, marital status, age or disability. The Commission shall report its findings to the City Manager and City Council.
- (8) Establish, administer or review programs at the request of the City Council or the City Manager and make reports on these programs to the City Council and City Manager.
- (9) Conduct studies and hold public hearings on policies and practices of public educational institutions with respect to discrimination on the basis of race, color, sex, religion, ancestry, national origin, sexual orientation or disability that is prohibited by this chapter, and of public health and social service agencies with respect to discrimination on the basis of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation or disability that is prohibited by this chapter, and bring to the attention of the appropriate policy-making body and chief Director problems that require notice or action to resolve.
- (10) Bring to the attention of the City Manager items that require City Manager or City Council notice or action to resolve.
- (11) Conduct studies and hold public hearings on policies or practices that cause or may be caused by a pattern or practice of discrimination.
- (12) Render to City Council and the City Manager annual written reports of its activities under the provisions of this chapter along with such comments and recommendations as it may choose to make.
- (13) Cooperate with and render technical assistance to federal, state, local and other public or private agencies, organizations and institutions which are formulating or carrying on programs to prevent or eliminate the unlawful discriminatory practices covered by the provisions of this chapter.
- (14) With the approval of the City Council, accept grants from federal, state, local and other public or private agencies, organizations and institutions, including but not limited to foundations, colleges and universities.

(15) Make use of uncompensated services of public agencies and private organizations as may from time to time be offered and needed to perform advisory and research duties.

(16) As far as it is practicable, the services, including advisory and consultative services of all City departments, agencies, boards and Commissions shall be made available to the Commission for the purpose of carrying out the functions, powers and duties herein set forth, and with the approval of the City Manager, the heads of such departments or agencies shall furnish to the Commission any information in the possession of the departments or agencies as is relevant to the duties of the Commission and which the Commission, by written communication, may require. This includes the use of counsel from the office of the City Attorney to aid in the conduct of its investigations and hearings.

(17) Establish panels of up to three members to conduct confidential hearings on pending complaints that have been identified by the Director. As to such complaints, a panel may advise the Director on whether (i) probable cause exists to believe unlawful discrimination has occurred, (ii) the time for the investigation should be extended, (iii) a public hearing should be scheduled, (iv) subpoenas should be obtained, and (v) a plan of settlement should be proposed to the parties.

(b) *Subpoenas.* In the course of any investigation of a complaint under this chapter or in any hearing held by the Commission in accordance with section 12-4-18 or section 12-4-21 of this chapter, the Commission, by majority vote of those members present, may apply to the appropriate circuit court for a subpoena or subpoena duces tecum to compel the attendance and testimony of witnesses and the production of evidence; provided, that, at the time it votes to apply to the court, the Commission shall have grounds to believe that unlawful discrimination has occurred, shall have made a good faith effort to obtain the data and other information necessary to determine whether such discrimination has occurred, and shall have been unable to obtain such data and information on a voluntary basis. At least five days prior to applying for a subpoena, the Commission shall notify the City Manager of its intention to apply for the subpoena and its reasons for doing so. The judge of the circuit court, upon good cause shown, may cause the subpoena to be issued. Any person failing to comply with such subpoena shall be subject to punishment for contempt by the court issuing the subpoena.

c) *Funds.* In the exercise of its powers and the performance of its duties the Commission shall not expend funds in excess of those appropriated to it by the City Council and those received by it from approved grants.

Section 12. That Section 12-4-16 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. 12-4-16 Complaints generally.

(a) Complaints under this chapter may be filed only by (i) any person claiming to have been injured by actions or conduct that are unlawful under this chapter (a "complainant"), or (ii) the Human Rights Director where the Director has probable cause to believe that one or more persons have been the subject of an unlawful discriminatory practice under this chapter. All complaints shall be made in writing, be under oath or affirmation and be accompanied by an affidavit. An additional copy shall be made for each respondent, if more than one. All complaints shall be on a form furnished by the Human Rights Director, and shall state the name and address of each respondent, the address of the person filing the complaint (the complainant or the Director), the date of the alleged offense and the alleged facts surrounding the acts complained of. The Human Rights Director shall forthwith transmit a copy of the complaint to each respondent by certified mail, return receipt requested, with another copy by ordinary mail. Each complaint shall be held in confidence by the Human Rights Director unless or until the complainant or the Director, as the case may be, and the respondent consent to its being made public, or until the time a hearing procedure such as described in section 12-4-21 has begun. A complaint must be filed within 300 days after the date of the actions or conduct alleged to be in violation of this chapter, except that a complaint alleging housing discrimination may be filed within 365 days of the alleged violation.

(b) Where a complainant or respondent in a case filed with the Human Rights Director is a person with a disability, the Director shall provide reader services if blind, interpreter services if deaf, or other special services to persons with a disability as are appropriate.

(c) Nothing in this chapter shall prevent any member of the Human Rights Commission from filing a complaint if he or she claims himself or herself to be the subject of a discriminatory practice or to be a person aggrieved under this section. Such person shall disqualify himself or herself as a member of the Commission when his or her complaint is before the Commission for a public hearing and for disposition.

(d) Nothing in this section shall be construed to prevent any person from filing a grievance with the Commission which alleges actions or conduct that is discriminatory and which seeks the Commission's good offices to conciliate, or to prevent the Commission from seeking to conciliate such grievances, pursuant to section 12-4-15(a)(1).

Section 13. That Section 12-4-17 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. 12-4-17 Investigation and probable cause of complaint filed by a complainant.

(a) Upon the filing of a complaint by a complainant, the Director shall undertake an investigation, which shall be completed within 180 days, unless additional time is allowed by the Commission, from the date of the filing of a complaint, to determine whether there is probable cause for the complaint. At any time following the filing of a complaint, the Director may convene a conference, over which the Director or her designee shall preside, in order to mediate the issues in dispute between the parties. The Director may also convene a confidential hearing, over which a panel of Commission members shall preside, in order to obtain advice from the panel in one or more of the areas set forth in section 12-4-15(a)(17). Upon completion of the investigation, the Director shall issue a written decision containing the Director's determination as to whether there is probable cause for the complaint. The Director shall send a copy of this written decision to the complainant person and the respondent by certified and ordinary mail.

(b) If the Director determines that there is probable cause for a complaint filed by a complainant, the Director shall immediately endeavor to eliminate the unlawful discriminatory practice complained of in accordance with section 12-4-18.

(c) If the Director determines that there is no probable cause for a complaint filed by a complainant, that determination shall constitute the final decision of the Commission which shall not be subject to judicial review.

Section 14. That Section 12-4-18 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. 12-4-18 Conciliation; breach of conciliation agreement; procedure; hearing; decision.

(a) Upon a determination by the Director that there is probable cause for the complaint filed by a complainant, or upon the filing of a complaint by the Director, the Director shall immediately endeavor to eliminate the unlawful actions or conduct or the unlawful discriminatory practice complained of, upon terms that are agreeable to the parties. The Director's effort initially shall consist of conciliation and persuasion. Conferences and other efforts at conciliation and persuasion shall be informal and may be conducted by the Director or any member of his or her staff so designated. Nothing said or done during or as part of the conciliation efforts shall be made public or used as evidence in a subsequent proceeding instituted under this chapter unless each of the interested parties agrees thereto in writing.

(b) If conciliation succeeds, the terms of the conciliation shall be reduced to

writing and signed by or on behalf of the parties and, where the complaint was filed by a complainant, also by the Director. The Director shall then notify the Commission through its chairperson that a conciliation agreement has been entered into by the parties. Conciliation agreements may be made public but any public disclosure shall not reveal the identities of the parties involved, except with the consent of all parties.

(c) Any conciliation agreement established pursuant to this section shall provide that all complaints filed by the same complainant that are pending before the Commission and that arise out of the same events or transactions giving rise to the complaint covered in the agreement shall terminate and shall not be revived by the complainant so long as the agreement is in force. The signing of an agreement shall not constitute an admission on the part of any signatory of a violation of any provision of this chapter or any other provision of law.

(d) Nothing in this chapter shall prohibit the Director from continuing his or her efforts to reach conciliation at any time while a complaint is pending before the Commission.

(e) In the event the Director has reason to believe that a party to a conciliation agreement entered into pursuant to this section has breached any provision of the agreement, the Director shall promptly notify the Commission. The Commission shall promptly schedule a public hearing to determine if the agreement has been breached. Notice of the time and place of hearing shall be mailed by certified mail, with a copy by ordinary mail, to each respondent and complainant no later than two weeks prior to the date of hearing. The Commission shall schedule for hearing all respondents who signed the agreement, but may upon request or its own motion schedule separate hearings for each respondent. Any party alleging a breach of the agreement shall appear at the hearing in person and may be accompanied by an attorney. Any party who is alleged to have violated the agreement may appear at the hearing in person or by a duly authorized representative, including an attorney. Each party may present testimony and evidence. The right to cross-examine witnesses shall be preserved. The Director shall cause a qualified reporter or stenographer to be present throughout the hearing, or shall provide a voice recording device, and shall record the proceedings. Upon direction of the Commission, the proceedings shall be transcribed. Any transcription shall be public and open to inspection by any person. All testimony shall be given under oath administered by the chairperson or his or her representative.

(f) If upon all the evidence at the hearing the Commission determines that the conciliation agreement has not been breached, the Commission shall not later than 14 days following the conclusion of the hearing render and issue a written decision containing its determination and the facts upon which the determination is based, cause the decision to be mailed by certified and ordinary mail to each respondent and complainant, announce and make public its determination, and

cause the determination to be recorded in the minutes of its proceedings. The case shall then be closed, and no further action shall be taken by the Commission on the instant allegation of the breach of the conciliation agreement, and the agreement shall remain in effect.

(g) If upon all the evidence at the hearing the Commission determines that the conciliation agreement has been breached, the Commission may refer the matter back to the Human Rights Director for further efforts toward conciliation or may, after consultation with the City Attorney, refer the matter to the City Attorney and recommend appropriate legal action to enforce the agreement.

(h) The City Attorney, upon receipt of a recommendation from the Commission, including a recommendation under subsection (g) of this section, may initiate appropriate legal action in a court of competent jurisdiction to enforce a conciliation agreement.

Section 15. That Section 12-4-19 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. 12-4-19 Amendments to complaints.

Complaints may be reasonably and fairly amended at any time prior to the fourteenth calendar day before the date of a hearing held pursuant to section 12-4-21. Amendments must also be under oath, in writing and accompanied by an affidavit and filed with the Human Rights Director. The Human Rights Director shall send a copy of any amendment to each respondent by certified mail, with another copy by ordinary mail.

Section 16. That Section 12-4-20 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. 12-4-20 Answers to complaints.

Each respondent may file with the Human Rights Director an answer at any time prior to the seventh calendar day before the date of a hearing held pursuant to section 12-4-21, provided it be under oath, in writing and accompanied by an affidavit. Answers may also be reasonably and fairly amended any time prior to the deadline for filing answers, if under oath, in writing, accompanied by an affidavit and filed with the Human Rights Director. The Human Rights Director shall send a copy of any amendment to the complainant by certified mail, with another copy by ordinary mail.

Section 17. That Section 12-4-21 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. 12-4-21 Hearings; decisions.

(a) Before the Commission can hold a hearing or render a decision under this section relating to a violation of this chapter, it is necessary that:

(1) a complaint shall have been filed under section 12-4-16 alleging the violation;

(2) a determination shall have been made under this chapter that probable cause exists for the complaint; and

(3) the applicable conciliation provisions of this chapter relating to the complaint shall have been complied with.

(b) In the event that a signed conciliation agreement is not reached within 30 days from the determination of probable cause on a complaint filed by a complainant, or within 30 days of the filing of a complaint by the Director, or within such additional time as the Commission may allow, the Director shall promptly notify the Commission, and the Commission shall thereupon schedule a public hearing as soon as possible to determine if a violation of this chapter has been committed. The Commission shall prior to any hearing verify that each party to the proceeding has received a copy of the complaint and any amendments thereto. Notice of the time and place of hearing shall be mailed by certified mail, with a copy by ordinary mail, to each respondent and complainant no later than two weeks prior to the date of the hearing. In cases in which there is more than one respondent, the Commission shall schedule a hearing for all respondents named in the complaint, but may upon request or on its own motion schedule separate hearings for each respondent. Complainants shall appear at the hearing in person and may be accompanied by an attorney. Each party respondent may appear at the hearing in person or by a duly authorized representative including an attorney. Each party may present testimony and evidence. Each party shall have the right to cross-examine. The Human Rights Director shall cause a qualified reporter or stenographer to be present throughout the hearing or shall provide a voice recording device, and shall record the proceedings. Upon direction of the Commission, part or all of the proceedings shall be transcribed. Any transcription shall be public and open to inspection by any person. All testimony shall be taken under oath administered by the chairperson or his or her representative.

(c) Within 30 days of the conclusion of the public hearing, the Commission shall determine whether the respondent has violated any provision of this chapter, shall announce in public the determination it has reached, and shall cause the determination to be recorded in the minutes of its proceedings.

(d) If the Commission determines, upon a preponderance of the evidence, that

the respondent has violated any provision of this chapter, the Commission shall:

(1) not later than 30 days after announcing its determination, issue a written decision containing:

(i) its determination;

(ii) the facts upon which the determination is based;

(iii) an order requiring the respondent to undertake specified actions designed to bring respondent into compliance with this chapter and stating the date or dates by which the respondent shall demonstrate to the Commission that it has undertaken these actions;

(iv) recommendations, if any, regarding the relief, that the respondent should provide any complainant and/or other persons injured by respondent's violation of this chapter, and the date or dates by which the respondent shall demonstrate to the Commission that it has implemented these recommendations; and

(v) recommendations, if any, to the City Manager regarding the levying of civil penalties against the respondent under section 12-4-24.1.

(2) cause a copy of its decision to be served on each respondent and complainant, by certified mail, with a copy by ordinary mail.

(3) designate appropriate parts of the hearing to be transcribed for the public record at the cost of the City.

(4) permit the complainant or each respondent to obtain copies of any part or all of the transcript of the proceedings at his or her cost. For good cause, the Commission may waive the requirement that the complainant or respondent must pay for the transcripts.

(e) If the Commission determines, upon the preponderance of the evidence, that the respondent has not violated any provision of this chapter, the Commission shall, not later than 30 days after announcing its determination, issue a written decision containing its determination and the facts upon which the determination is based, and shall cause its decision to be served on each respondent and complainant by certified mail, with a copy by ordinary mail. The case shall then be closed and no further action shall be taken by the Commission in the matter.

Section 18. That Section 12-4-22 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. 12-4-22 Interlocutory relief.

If, at any time after a complaint has been filed, the Commission believes that appropriate civil action to preserve the status quo or to prevent irreparable harm appears advisable, the Commission may after consultation with the City Attorney or his or her designee, certify the matter to the City Attorney to petition a court of competent jurisdiction for injunctive relief.

Section 19. That Section 12-4-23 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. 12-4-23 Judicial review.

(a) Any person aggrieved by a decision of the Commission entered pursuant to section 12-4-18(f) or 12-4-21 may have the decision reviewed by a court of competent jurisdiction. A review proceeding shall be instituted by filing with the court a petition for review naming the Commission as respondent. A copy of the petition shall be served upon the City Attorney, who shall represent the Commission in the review proceeding. No petition for review may be filed more than 30 days after the date of service of the decision of which review is sought.

(b) The court, on motion of the petitioner, may issue a writ of certiorari requiring the agency to transmit the record of the proceeding before the Commission on or before a certain date.

(c) The court, sitting without a jury, shall hear the appeal on the record transmitted by the Commission and any additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require.

(d) The court may affirm the decision of the Commission or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner have been prejudiced because the determination, findings of fact or conclusions of law set out in the Commission's decision are:

- (1) in violation of constitutional provisions;
- (2) in excess of legal authority or jurisdiction of the Commission;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by the evidence on the record considered as a whole; or

(6) arbitrary, capricious, or an abuse of discretion.

(e) The filing of a petition shall not operate to stay an application to the court under section 12-4-24 for the enforcement of the order. If an application has been made to the court for enforcement of the order, the petitioner, at any time after the filing of his or her petition, may move the court for a stay of enforcement. The motion shall be made after notice to the Commission, and a stay pending the review shall be granted unless it appears to the court that immediate enforcement of the order is essential to the public health or safety. In the order granting a stay, the court may make any provision required to serve the ends of justice.

Section 20. That Section 12-4-24 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. 12-4-24 Judicial action to enforce Commission decision.

(a) If a person who is a respondent in a proceeding before the Commission fails to comply with an order issued by the Commission pursuant to section 12-4-21(d)(iii), the Commission may, after consulting with and receiving the approval of the City Attorney, bring an appropriate action, through the city attorney, in any court of competent jurisdiction to secure a judicial order requiring the person to comply with the Commission's order or otherwise to come into compliance with the provisions of this chapter.

(b) If a person who is a respondent in a proceeding before the Commission fails to comply with recommendations issued by the Commission pursuant to section 12-4-21(d)(iv), the Commission, after consulting with and receiving a recommendation from the City Attorney and thereafter receiving authorization from the City Council, may bring an appropriate action, through the City Attorney, in any court of competent jurisdiction to secure a judicial order or judgment requiring the person to provide appropriate relief to any complainant in said proceeding, and/or any other individual, who has been injured as a result of the person's violation of this chapter.

Section 21. That Section 12-4-24.1 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. 12-4-24.1 Civil penalty.

The violation of any provision of this chapter shall be a class one civil violation, and any person who commits, permits, assists in or attempts, whether by act or omission, such a violation shall be liable for a civil penalty. The rules applicable to, and

the procedures for the levying of, such a civil penalty shall be those set out in section 1-1-11 of this code; provided, that notice of a civil violation of this chapter may be issued only by the City Manager and only following a recommendation made by the Commission under section 12-4-21(d)(v).

Section 22. That Section 12-4-27 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. 12-4-27 Advisory opinions.

To terminate a controversy or to remove uncertainty, upon the request of the Director or any person, the Commission, in its discretion may issue an advisory opinion declaring that, upon the facts presented, a particular practice, program or regulation does not violate this chapter. Such opinions shall be advisory only and shall not preclude the Commission from making a different determination in processing a formal complaint.

Section 23. That Section 12-4-28 of The Code of the City of Alexandria, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:
Sec. 12-4-28 Forms.

The City Attorney, at the request of the Commission or the Director or on his or her own initiative, shall prepare the forms recognized for the enforcement of this chapter.

Section 14. That Section 12-4-29 of The Code of the City of Alexandria, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 12-4-29 Conditions under which City Attorney not to represent Commission, Director.

Notwithstanding any contrary provisions of this chapter, the City Attorney shall not represent either the Commission or the Director in any matter or proceeding in which the City or any department, office or agency of the City is a respondent. In this event, the Commission and the Director may consult with and retain a private attorney to provide the services that the City Attorney would ordinarily provide the Commission and Director.

Section 15. That Section 12-4-30 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. 12-4-30 Severability.

The provisions of this chapter are severable and, if any section, provision or part

of the chapter is held, for any reason, invalid or inapplicable to any person or circumstance, such invalidity or inapplicability shall not affect or impair any of the remaining sections, provisions or parts of this chapter, or their application to any other person or circumstance. It is hereby declared to be the intent of the City Council that this chapter would have been adopted even if the section, provision or part of the chapter declared invalid had not been included herein, or if the person or circumstance to which the section, provision or part is declared inapplicable had been specifically exempted from the chapter.

Section 16. That this ordinance shall become effective at the time and on the date of final passage.

22. Public Hearing, Second Reading and Final Passage of an Ordinance to Establish a Fee For Hazardous Materials Incident Responses By the City. (#19, 6/10/08) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated June 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 22; 6/14/08, 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; 6/14/08, 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; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to establish a fee for hazardous materials incident responses by the City. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4550

AN ORDINANCE to amend and reordain Article J (SERVICE CHARGE FOIR CITY AMBULANCE SERVICE), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT), of the Code of the City of Alexandria,

Virginia, 1981, as amended, by adding thereto a new Section 3-2-134 (HAZARDOUS MATERIALS INCIDENT RESPONSE FEES), and by making a conforming amendment to the catchline of the said Article J.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article J, Chapter 2, Title 3 of the Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is, amended and reordained adding thereto a new Section 3-2-134, and by amending the catchline, to read as follows:

Article J Service Charges for City Ambulance and Hazardous Materials Incident Response Services

[The following is all new language]

Section 3-2-134 Hazardous materials incident response charges.

(a) The following words and phrases, when used in this section, shall have the meanings set out below:

- (1) Hazardous materials: Any substance that, because of its quantity, concentration or physical or chemical characteristics, possesses a significant present or potential hazard, according to federal, state and/or local standards or regulations, to human health and safety, or to the environment, if released from its intended container or abandoned.
- (2) Hazardous materials incident or incident: Any incident that involves the release from its intended container or abandonment of any hazardous material, which incident has the potential to harm persons, property or the environment.
- (3) Level I Hazardous Materials Incident Response: An incident response requiring recovery, containment or mitigation as a result of a release or abandonment of hazardous materials, utilizing resources from the City of Alexandria.
- (4) Level II Hazardous Materials Incident Response: An incident response requiring recovery, containment or mitigation as a result of a release or abandonment of hazardous materials, utilizing resources from the City of Alexandria and one or more mutual aid jurisdictions.
- (5) Responsible Party: All persons, jointly and severally, involved in the ownership, possession or transportation of any hazardous material that is released or abandoned in a hazardous materials incident, and all persons, jointly and severally, who otherwise cause a hazardous materials incident in the City.

(b) For each Level I and Level II Hazardous Materials Incident Response, there is hereby imposed on the responsible party a service charge equivalent to the City's costs of response, as determined pursuant to the then current emergency response cost recovery schedule published by the Virginia Department of Emergency Management. The funds received shall be paid into the general fund of the city to aid in defraying the cost of providing hazardous materials incident response services by the fire department and other agencies of the City.

(c) No charge shall be imposed on a natural person in the following instance:

(1) Such person is involved in the hazardous materials incident solely for his or her private, noncommercial purposes related to his or her own residential real property or private personal property (other than a motor vehicle licensed for operation on public streets and highways), was not involved in the incident as the employee, agent or servant of any business, and receives or is to receive no compensation for any services involving the hazardous materials incident, and

(2) The hazardous materials involved in the incident are in a form, quantity, concentration and container ordinarily and lawfully available for sale as consumer products to members of the general public.

(d) Nothing in this section shall be deemed to relieve a responsible party of liability for actual and/or additional response costs, damages, penalties, fines, forfeitures, prosecution, injunction or other remedies pursuant to law, nor to affect the city's cost recovery through the Virginia Department of Emergency Management for Level III Hazardous Materials Incident Responses.

Section 2. That this ordinance shall be effective July 1, 2008.

23. Public Hearing, Second Reading and Final Passage of an Ordinance to Establish an Investment Trust Fund and Fund Management Board For Certain Insurance Benefits or Retirees. (#20, 6/10/08) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated June 6, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 23; 6/14/08, 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; 6/14/08, 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; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to establish an Investment Trust Fund and Fund Management Board for certain insurance benefits or retirees. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4551

AN ORDINANCE to amend and reordain Section 2-5-57 (SALARY DEDUCTIONS AND WITHHOLDINGS FOR RETIREMENT, ETC.) of Article D (RETIREMENT AND INSURANCE), Chapter 5 (OFFICERS AND EMPLOYEES), Title 2 (GENERAL GOVERNMENT), and to amend Chapter 1 (GENERAL PROVISIONS) of Title 3 (FINANCE, TAXATION AND PROCUREMENT), by adding there to a new Section 3-1-7 (POST-EMPLOYMENT NON-PENSION BENEFIT TRUST FUND ACCOUNT), all of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 2-5-57 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. 2-5-57 Salary deductions and withholdings for retirement; deferred compensation and insurance plans; payment of city's share to maintain plans.

(a) The director of finance is hereby authorized to deduct, withhold and remit employees' contributions, either voluntary or mandatory, for the plans adopted in this article and health insurance plans for city employees authorized by law. The director of finance is further authorized to expend the share of the city toward maintaining or contributing on its behalf or on behalf of its employees to these plans, subject to appropriation of necessary funds by the city council.

(b) The director of finance is further authorized to expend any applicable employee or retiree contributions to fund the Post-Employment Non-Pension Benefit Trust Fund established by section 3-1-7 of this code.

Section 2. That Article 1 of Title 3 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding thereto a new Section 3-1-7 to read as follows:

[The following is all new language]

Sec. 3-1-7 Post-Employment Non-Pension Benefit Trust Fund Account.

Establishment of account. There is hereby established for the City of Alexandria a permanent account to be known and designated as The City of Alexandria Post-Employment Non-Pension Benefit Trust Fund Account, which account shall be accounted for and maintained separate and apart from all other accounts maintained by the City of Alexandria. Such trust fund account shall be maintained and administered pursuant to the terms and requirements of Virginia Code Sections 15.2-1544, et seq.

Funding of account. The City Council shall, for the fiscal year commencing July 1, 2008, and in each ensuing fiscal year, assign and appropriate to such trust fund account such funds as deemed reasonably prudent for the ongoing and future payment of post-employment non-pension benefits for retired employees of the City of Alexandria and their eligible beneficiaries. Such appropriated funds, together with any employee or retiree contribution funds deposited in such account, shall be irrevocable, and unexpended appropriations to such account shall not lapse or expire at the end of the fiscal year in which made, irrespective of whether such appropriations were encumbered within such fiscal year. Funds deposited in the account shall be invested in accordance with law, and earnings thereon shall likewise be irrevocably deposited into such account..

Expenditures from account. Notwithstanding any contrary provision of law, appropriations from the said account shall be authorized and made exclusively to pay for post-employment non-pension benefits afforded under any applicable retirement plan for former City of Alexandria employees pursuant to the terms of those plans. Once such trust fund has been fully funded (so as pay the city's actuarially determined liability for such benefits accrued and accruing, excepting only funds required to be deposited in the current fiscal year), such post-employment non-pension benefits shall be paid exclusively from the trust fund.

Post-employment non-pension benefits defined. As used in this section, post-employment non-pension benefits means medical, dental, and life insurance provided to individuals who have terminated their service with the City of Alexandria and to the dependents of such individuals, whether provided by purchasing insurance, by a program of self-insurance, or by a combination of both.

Administration of account. The trust fund account established by this section shall be managed, maintained and invested, as set forth in Virginia State Code Sections 15.2-1544, et. seq., by a three member finance board,

comprised of the chief financial officer and director of finance of the city, and one citizen member with proven integrity, business ability, and demonstrated experience in cash management and investments, appointed by city council for a two-year term.

Section 3. That this ordinance shall become effective on July 1, 2008.

24. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the Taylor Run/Duke Street Small Area Plan Chapter of the Master Plan to Increase Permitted Height in the Vicinity of the New DASH Facility From 35 to 50 Feet. (#21, 6/10/08) **[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. 24; 6/14/08, 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. 24; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to amend the Taylor Run/Duke Street Small Area Plan Chapter of the Master Plan to increase permitted height in the vicinity of the new DASH facility from 35 to 50 feet. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4552

AN ORDINANCE to amend and reordain the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia, by adopting and incorporating therein the amendment heretofore approved by city council to such master plan as Master Plan Amendment No. 20008-0002 and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendment.

WHEREAS, the City Council of the City of Alexandria finds and determines that:

1. In Master Plan Amendment No. 2008-0002, the Planning Commission

approved an application to amend the Taylor Run/Duke Street Small Area Plan Chapter of the 1992 Master Plan (2008 ed.) of the City of Alexandria, to increase height on the DASH property, 3000 and 3100 Business Center Drive, from a maximum of 35 to a maximum of 50 feet.

2. The said amendment has heretofore been approved by the planning commission, and city council with an amendment, after full opportunity for comment and public hearing.

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

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the Taylor Run/Duke Street Small Area Plan Chapter of the 1992 Master Plan (2008 ed.) of the City of Alexandria, be, and the same hereby is, amended by changing the height shown on Map 13 ("Proposed Height Limits") and Map 14 ("Proposed Height Changes") from a maximum of 35 feet to a maximum of 50 feet, for the property known as 3000 and 3100 Business center Drive, Tax and Zoning Map Nos. 61.04-02-23 and 61.04-02-24.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing master plan amendment, as part of the Taylor Run/Duke Street Small Area Plan Chapter of the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia.

Section 3. That all provisions of the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia, as may be inconsistent with the provisions of this ordinance be, and same hereby are, repealed.

Section 4. That the 1992 Master Plan (2008 ed.) of the City of Alexandria, as amended by this ordinance, be, and the same hereby is, reordained as the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia.

Section 5. That the city clerk shall transmit a duly certified copy of this ordinance to the Clerk of the Circuit Court of the City of Alexandria, Virginia, and that the said Clerk of the Circuit Court shall file same among the court records.

Section 6. 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 Make Supplemental Appropriations For the Support of the City Government For Fiscal Year 2008. (#22, 6/10/08) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated June 5, 2008, is on file in the

Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 25; 6/14/08, 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; 6/14/08, 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; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to make supplemental appropriations for the support of the City government for fiscal year 2008. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4553

AN ORDINANCE making supplemental 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 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 2008, the source of such amount being external grant awards for which revenues were authorized and adjusted after July 1, 2007, but not appropriated, and further that the Council does hereby allot the amount so appropriated to the several city departments for fiscal year 2008, as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Sheriff	\$ 7,538
Transportation and Environmental Services	1,257,850
Fire	922,675
Housing	166,158
Human Services	475,697

Economic Development Activities	255,800
Total Estimated Revenue	<u>\$ 3,085,718</u>

APPROPRIATION:

Sheriff	\$ 7,538
Transportation and Environmental Services	1,257,850
Fire	922,675
Housing	166,158
Human Services	475,697
Economic Development Activities	255,800
Total Appropriation	<u>\$ 3,085,718</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 2008, 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 2008, as follows:

CAPITAL PROJECTS

ESTIMATED REVENUE:

Capital Projects	<u>\$ 9,474,212</u>
Total Estimated Revenue	<u>\$ 9,474,212</u>

APPROPRIATION:

Capital Projects	<u>\$ 9,474,212</u>
Total Appropriation	<u>\$ 9,474,212</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 2008, 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 2008 - 2013 capital improvement program, adopted by Council May 7, 2007.

GENERAL FUND

FINANCING USE:

Transfer Out to Capital Project Fund	<u>\$ 3,643,211</u>
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Total Transfer Out	\$ 3,643,211
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CAPITAL PROJECT FUND

ESTIMATED REVENUE:

Transfer In from General Fund	\$ 3,643,211
Total Financing Source	\$ 3,643,211

APPROPRIATION:

Capital Projects	\$ 3,643,211
Total Appropriation	\$ 3,643,211

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 2008, 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 2008, as follows:

EQUIPMENT REPLACEMENT FUND

APPROPRIATION:

Historic Alexandria	\$ 3,014
Total Appropriation	\$ 3,014

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 2008, 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	\$ 723,841
Total Appropriation	\$ 723,841

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 2008, the source of such amount being Donation revenues and further, that the Council does hereby allot the amount so appropriated for fiscal year 2008 as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Donation and Fee Revenue	\$ 6,307,321
Total Estimated Revenues	<u>\$ 6,307,321</u>

APPROPRIATION:

Transportation and Environmental Services	\$ 10,800
Fire	116,521
Sheriff	180,000
Housing	<u>6,000,000</u>
Total Appropriation	<u>\$ 6,307,321</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 2008, 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 2008, as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Transfer From General Fund	\$ (13,699)
Total Estimated Revenue	<u>\$ (13,699)</u>

APPROPRIATION:

Law Library	\$ (223)
Library	<u>(13,476)</u>
Total Appropriation	<u>\$ (13,699)</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 2008, 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	\$ 1,030,000
Total Estimated Revenue	<u>\$ 1,030,000</u>

APPROPRIATION:

General Services	\$ 500,000
Human Services	<u>530,000</u>
Total Appropriation	<u>\$ 1,030,000</u>

Section 9. That this ordinance shall become effective upon the date and time at the time of its final passage.

26. Public Hearing, Second Reading and Final Passage of an Ordinance to Make Appropriations For the Support of the City Government For Fiscal Year 2009. (#23, 6/10/08) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated June 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 26; 6/14/08, 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. 26; 6/14/08, 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. 26; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to make appropriations for the support of the City government for fiscal year 2009. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4554

AN ORDINANCE making appropriations for the support of the government of the City of Alexandria, Virginia, for fiscal year 2009.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That, pursuant to section 6.07 of the city charter, the sum of \$745,713,583 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 2008 and ending on the thirtieth day of June 2009.

Section 2. That, pursuant to section 6.07 of the city charter, the sum of \$745,713,583 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 2008 and ending on the thirtieth day of June 2009 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:

<u>Department/Unit/Component Unit/ Category of Expenditure</u>	<u>Appropriation</u>
18 th Circuit Court	\$ 1,368,046
18 th General District Court	78,571
18 th Juvenile Court	34,327
Citizen Assistance	778,771
City Attorney	3,341,753
City Clerk and Clerk of Council	415,455
City Council	524,157
City Manager	1,845,208
Clerk of Court	1,637,190
Commonwealth's Attorney	3,030,463
Contingent Reserves	816,218
Court Services Unit	1,535,785
Economic Development	3,422,182
Finance	9,833,109
Fire	41,980,039
General Debt Service	33,640,327
General Services	13,267,828
Health	6,921,499
Human Rights	691,695
Human Services	54,134,798
Human Services Contributions	2,324,880
Information Technology Services	7,342,566
Internal Audit	239,606
Law Library	163,013
Mental Health/Mental Retardation/Substance Abuse	30,745,556
Non-Departmental	10,393,531
Office of Communications	1,389,716
Office of Historic Alexandria	3,325,052
Office of Housing	5,780,738
Office of Management and Budget	

1,183,001	
Office on Women	1,884,598
Other Correctional Activities	5,482,834
Other Educational Activities	
12,004	
Other Health Activities	1,038,600
Personnel	3,427,143
Planning & Zoning	6,531,751
Police	53,607,272
Real Estate Assessments	1,635,473
Recreation, Parks & Cultural Activities	21,559,389
Registrar of Voters	1,275,383
Sheriff	27,179,088
Transit Subsidies	20,168,745
Transportation and Environmental Services	32,098,315
Capital Projects	98,261,469
Component Unit-Library	7,610,690
Component Unit-Schools	215,658,423
Internal Services	6,097,326
TOTAL APPROPRIATIONS	<u>\$745,713,583</u>

Section 3. That, pursuant to section 6.07 of the city charter, the sum of \$745,713,583 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 2008 and ending on the thirtieth day of June 2009 be, and the same hereby is, further appropriated to the following principal objects of city expenditures:

<u>Object of Expenditures</u>	<u>Appropriation</u>
Personnel Services	\$ 237,201,665
Non-Personnel Services	169,041,028
Capital Outlay	354,982
Component Unit-Library	7,610,690
Component Unit-Schools	215,658,423
Component Unit-Alexandria Transit Company	11,488,000
Equipment Replacement	6,097,326
Capital Projects	98,261,469
TOTAL APPROPRIATIONS	<u>\$ 745,713,583</u>

Section 4. That the sum of \$745,713,583 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 2008 and ending on the thirtieth day of June 2009 is estimated to be derived from the following sources of revenue:

<u>Source of Revenue</u>	<u>Amount</u>
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General Property Taxes	\$ 329,070,498
Other Local Taxes	121,493,000
Permits, Fees and Licenses	9,706,232
Fines and Forfeitures	4,755,300
Intergovernmental Revenue	
163,026,284	
Charges for Services	36,613,565
Revenue from Use of Money and Property	8,506,436
Miscellaneous Revenue	7,152,851
Bond Proceeds - Future Sale	47,081,311
Unreserved Fund Balance - General Fund	
11,950,000	
Subsequent Year's Budget as Designated	
Unreserved Fund Balance – Capital Projects Fund	1,074,500
Unreserved Fund Balance – Sewer Fund	
1,153,444	
Retained Earnings - Internal Services	4,130,162
TOTAL ESTIMATED REVENUE	<u>\$ 745,713,583</u>

Section 5. That, pursuant to section 6.14 of the city charter, the sum of \$98,261,469 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 2008 and ending on the thirtieth day of June 2009. This sum, which consists of the \$98,261,469 appropriated as Capital Projects in section 2 of this ordinance, is appropriated as follows: (i) \$76,324,058 to capital projects which are included in the city's government fiscal year 2009 - 2012 capital improvement program adopted by City Council on May 5, 2008 \$19,879,886 to the capital projects identified in the Alexandria City Public Schools' capital budget approved by the school board on January 3, 2008 and (iii) \$2,039,525 for the Open Space Trust Fund.

Section 6. That the sum of \$98,261,469 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 2008 and ending on the thirtieth day of June 2009 is estimated to be derived from the following sources of revenue:

<u>Source of Revenue</u>	<u>Amount</u>
Transfer In from General Fund	\$ 4,917,687
Transfer In from Special Revenue Fund – Sewer	
4,631,000	
Permits and Licenses	1,207,125
Use of Money and Property – Bond Interest Earnings	2,500,436
Miscellaneous Revenue	2,015,060
Designated General Fund Balance	7,350,000

Designated General Fund Balance	7,350,000
Designated Capital Projects Fund Balance	1,074,500
Intergovernmental Revenue	
27,484,350	
Bond Proceeds - Future Sale	<u>47,081,311</u>
TOTAL ESTIMATED REVENUE	<u>\$ 98,261,469</u>

Section 7. That the sum of \$231,932,429 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	\$34,003,133	Spec'l Rev. Fund - Gen	\$34,003,133
Special Revenue	1,323,910	General Fund	1,323,910
Fund - Sewer			
General Fund	3,830,815	Spec'l Rev. Fund--	3,830,815
		Affordable Housing	
Special Revenue	4,631,000	Capital Projects	4,631,000
Fund - Sewer			
General Fund	4,917,687	Capital Projects Fund	4,917,687
General Fund	167,953,749	Component Unit-Schools	167,953,749
General Fund	8,067,000	Component Unit - Alex.	8,067,000
		Transit Company	
General Fund	7,205,135	Component Unit-Library	7,205,135
TOTALS	\$231,932,429	TOTALS	\$231,932,429

Section 8. That the sum of \$745,713,583 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 2008 and ending on the thirtieth day of June 2009 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 following page of this ordinance.

Section 9. That the sum of \$745,713,583 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 2008 and ending on the thirtieth day of June 2009 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 sum of \$4,200,000 be appropriated from fund for the support of the government of the City of Alexandria in the fiscal year beginning on the first day of July 2008 and ending on the thirtieth day of June 2009 is appropriated in the

amounts set forth below:

ESTIMATED REVENUE:

Designated General Fund Balance	<u>\$ 4,200,000</u>
Total Estimated Revenue	<u>\$ 4,200,000</u>

APPROPRIATION:

Non Departmental	<u>\$ 4,200,000</u>
Total Appropriation	<u>\$ 4,200,000</u>

Section 11. 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, 2008 but which are payable in fiscal year 2009 and for which amounts were appropriated but not expended in fiscal year 2008 and further that the council does hereby allot the amounts so appropriated to the several city departments for fiscal year 2009 as follows:

GENERAL FUND

Citizen Assistance	\$ 7,000
City Attorney	4,000
City Manager	4,000
Commonwealth's Attorney	5,000
Finance	989,000
Fire	590,000
General Services	520,000
Health	114,000
Human Rights	5,000
Human Services	504,000
Information and Technology Services	739,000
Non-Departmental	265,000
Office of Historic Alexandria	25,000
Office on Women	15,000
Other Correctional Activities	21,000
Personnel	7,000
Planning and Zoning	520,000
Police	291,000
Recreation and Cultural Activities	412,000
Registrar of Voters	22,000
Sheriff	497,000

Transit Subsidies	1,004,000
Transportation and Environmental Service	2,941,000
Total General Fund	\$ 9,501,000

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

27. Public Hearing, Second Reading and Final Passage of an Ordinance to Clarify the Requirements For Obtaining a Truck Haul Route Permit. (#23.1, 6/10/08)
[ROLL-CALL VOTE]

(A copy of the City Manager's memorandum dated June 6, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 27; 6/14/08, 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. 27; 6/14/08, 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. 27; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to clarify the requirements for obtaining a truck haul route permit. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4555

AN ORDINANCE to amend and reordain Section 5-2-27 (HAULING OF WASTE MATERIALS, CONSTRUCTION MATERIALS, ETC., PROHIBITED) of Chapter 2 (STREETS AND SIDEWALKS), 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 Section 5-2-27 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. 5-2-27 Hauling of waste materials, construction materials, etc., prohibited.

(a) Hauling waste materials of any type, building or construction supplies of any type, bulk materials or commodities of any type, heavy vehicles or equipment of any type not licensed for street use, or dirt, debris or fill of any type is prohibited on all streets within the City, except pursuant to a permit issued under subsection (b) of this section, or pursuant to an exemption under subsection (e) of this section.

(b) The director of transportation and environmental services is hereby authorized to issue permits to haul such materials, supplies or equipment over the streets within the City, subject to such conditions and restrictions specifying the time and route for such hauling, and such additional conditions and restrictions, as the director may deem appropriate to promote traffic safety and to minimize disruption to established residential, commercial, institutional and other areas in the City.

(c) Any person who, as the owner, lessee, operator or driver of a motor vehicle or trailer, commits, permits, directs, assists in or attempts any violation of this section shall be guilty of a class two misdemeanor.

(d) Any person who, as the owner of any land, building or structure to or from which such materials, supplies or equipment are hauled, or the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, commits, permits, directs, assists in or attempts any violation of this section shall be guilty of a class two misdemeanor.

(e) The prohibition set forth in subsection (a) of this section shall not apply to the hauling of such materials, supplies or equipment (1) to or from any specific location or site at the rate of five or fewer trips for pickup or delivery of such materials or equipment in any consecutive thirty day period, (2) to the business location of a retail merchant for use by such merchant in the ordinary course of such merchant's business or from the business location of such a merchant in the ordinary course of such merchant's business to specific locations or sites, but subject to the limitation in clause (1) for each such location or site, nor (3) to the non-commercial hauling of such materials or equipment to or from a dwelling unit, by a resident therein.

Section 2. That this ordinance is declaratory of existing law.

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

27.2. Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to Revise the Membership of the Public Health Advisory Commission.

(A copy of the City Manager's memorandum dated March 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 27.2; 6/14/08, 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. 27.2; 6/14/08, 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. 27.2; 6/14/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the proposed ordinance on first reading and scheduled it for public hearing, second reading and final passage on June 24, 2008. The voting was as follows:

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

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR (28-30)

Planning Commission (continued)

28. SPECIAL USE PERMIT #2008-0031
816 NORTH SAINT ASAPH STREET
FLEX AWARE LEARNING

Public Hearing and Consideration of a request for a change of ownership, increased hours of operation, an increase in the number of students allowed, and a request for a parking reduction, zoned CDX/Commercial Downtown Old Town North. Applicant: Flex Aware Learning Corp., by Heidi Thompson

PLANNING COMMISSION ACTION: Deferred 6-0

29. SPECIAL USE PERMIT #2007-0107
CARLYLE DEVELOPMENT - Area bounded by Duke Street to the north, Holland Lane to the east, Eisenhower Avenue to the south and Mill Road to the west, known as the Carlyle Development
CARLYLE COORDINATED SIGN PROGRAM
Public Hearing and Consideration of a request for an amendment to the Carlyle

Coordinated Sign Program; zoned CDD-1/Coordinated Development District - 1.
Applicant: Carlyle-Lane-CFRI Venture II, LLC and LCOR Ballenger Avenue, LLC
by Jonathan P. Rak, attorney

PLANNING COMMISSION ACTION: Deferred 6-0

Board of Architectural Review

30. Public Hearing and Consideration of an Appeal of the Board of Architectural Review's decision to take no action on a tie vote on a request for approval of after-the-fact alterations at 900 Prince Street, zoned CL Commercial, BAR2007-0240. Applicant: PMA Properties, 900 LLC. APPELLANT: Townsend Van Fleet on behalf of petitioners.

Deferred to the June 24, 2008 City Council Meeting.

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

City Council noted the deferrals.

NEW BUSINESS ITEM NO. 1: City Council noted that there is no need for a work session with the Electoral Board on June 17..

EXECUTIVE SESSION

31. Consideration of Convening An Executive Session Closed to the Public To Discuss Personnel Matters and Potential Litigation.

WHEREUPON, upon motion by Councilmember Lovain, seconded by Councilman Smedberg and carried unanimously, at 4:21 p.m., City Council convened in Executive Session, pursuant to Section 2.2-3711(A)(1) of the *Code of Virginia*, for the purpose of reviewing the performance of the city manager and the city attorney, Section 2.2-3711(A)(7) for the purpose of discussing potential litigation involving the Norfolk Southern Ethanol Transloading Facility and the terms and conditions of a loan agreement for the acquisition and retention of affordable housing. The voting was as follows:

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

WHEREUPON, upon motion by Councilmember Lovain, seconded by Councilman Smedberg and carried unanimously, at 9:21 p.m., City Council reconvened the meeting. The voting was as follows:

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

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

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

The resolution reads as follows:

RESOLUTION NO. 2285

WHEREAS, the Alexandria City Council has this 14TH day of June 2008, recessed into executive session pursuant to a motion made and adopted in accordance with the Virginia Freedom of Information Act; and

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

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

* * * * *

The meeting adjourned at 9:22 p.m.

* * * * *

THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Councilmember Lovain, seconded by Councilman Smedberg and carried unanimously, the City Council public hearing meeting of June 14, 2008, was adjourned at 9:22 p.m. The voting was as follows:

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

APPROVED BY:

WILLIAM D. EUILLE MAYOR

ATTEST:

Jacqueline M. Henderson, CMC, City Clerk