

# **CITY COUNCIL OF ALEXANDRIA, VIRGINIA**

**Regular Meeting**  
**Tuesday, June 26, 2007 - - 7:00 p.m.**

\* \* \* \* \*

**Present:** Mayor William D. Euille, Vice Mayor Redella S. Pepper, Members of Council Ludwig P. Gaines, K. Rob Krupicka, Timothy B. Lovain and Paul C. Smedberg.

**Absent:** None.

**Also Present:** Mr. Hartmann, City Manager; Mr. Pessoa, City Attorney; Ms. Snow, Assistant City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Mr. Caton, Legislative Director; Police Captain Hassan; Ms. Boyd, Director, Citizen Assistance; Mr. Fairchild, Business Facilitator; Mr. Kincannon, Director, Recreation, Parks and Cultural Activities; Mr. Blakeley, Deputy Director, Recreation, Parks and Cultural Activities; Mr. Baier, Director, Transportation and Environmental Services; Mr. Skrabak, Environmental Quality, Transportation and Environmental Services; Mr. Mason, Special Assistant to the City Manager; Ms. Davis, Director, Office of Housing; Ms. McIlvane, Deputy Director, Office of Housing; Mr. Herway, Director, Office of Information Technology; Mr. Frazier, Youth Services, Department of Human Services; Ms. Chis, Director of Family Services, Department of Human Services; Ms. Hamer, Director, Planning and Zoning; Mr. Josephson, Deputy Director, Planning and Zoning; Ms. Peterson, Planning and Zoning; Ms. Beeton, Planning and Zoning; Mr. Milone, Planning and Zoning; Mr. Catlett, Director, Code Enforcement; Ms. Triggs, Acting Director, Finance Department; Mr. Johnson, Director, Office of Management and Budget; Sheriff Lawhorne; 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. Moment of Silence and Pledge of Allegiance.

City Council observed a moment of silence and recited the Pledge of Allegiance.

3. Reading and Acting Upon the Minutes of the Following Meetings of City Council:

- (a) The Regular Meeting Minutes of June 12, 2007; and
- (b) The Public Hearing Meeting Minutes of June 16, 2007.

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the regular meeting minutes of June 12, 2007 and the public hearing meeting minutes of June 16, 2007, as amended with the change proposed by Councilman Krupicka. The voting was as follows:

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

**RECOGNITION OF YOUTH BY MEMBERS OF CITY COUNCIL**

None.

**PROCLAMATIONS**

4. Presentation of a Proclamation Recognizing Employees of the Alexandria Office of the Sheriff as City Employees of the Month for May.

(A copy of the proclamation is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 6/26/07, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilmember Lovain, seconded by Councilman Gaines and carried unanimously, City Council endorsed the proclamation. The voting was as follows:

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

5. Presentation of a Plaque by Representatives of Virginia Tech to Recognize the Mayor and City Council for the Assistance and Support Provided by the City in April.

Representatives from Virginia Tech presented a plaque to the Mayor and City Council for the City's support at the vigil on Market Square in April after the Virginia Tech shootings.

**REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER**

## **CONSENT CALENDAR (6-16)**

### **(Resignations and Uncontested Appointments)**

6. Uncontested Appointments to Boards, Commissions and Committees:
  - (a) Alexandria Beautification Commission  
1 Citizen Member
  - (b) Alexandria Board of Architectural Review - Old and Historic District  
1 Citizen Member
  - (c) Alexandria Board of Architectural Review - Parker-Gray District  
2 Citizen Members
  - (d) Alexandria Carr/Norfolk Southern (Carlyle) Design Review Board  
1 Citizen Member
  - (e) Alexandria Citizen Corps Council  
1 Representative of the Emergency Medical Services Council,  
Medical Reserve Corps or A Person With Emergency Medical  
Response Experience
  - (f) Alexandria Commission on HIV/AIDS  
1 Member From and Representing the Hospice of Northern Virginia
  - (g) Alexandria Commission on Persons With Disabilities  
1 Representative of the Alexandria Commission on Aging
  - (h) Alexandria Community Services Board  
2 Citizen Members  
3 Consumers (Current or Former Direct Recipients of Public or  
Private Mental Health, Mental Retardation, or Substance Abuse  
Treatment Rehabilitation Services) or Family Members (Immediate  
Family Member or the Principal Caregiver Who Is Not Paid)
  - (i) Alexandria Convention and Visitors Association Board of Governors  
1 At-Large Member  
1 Retail Business Owner/Manager Representative  
1 National or International Trade or Professional Association  
Executive
  - (j) Alexandria Emergency Medical Services Council  
Alexandria's Operational Medical Director

- (k) Alexandria Waterfront Committee  
1 Citizen Representative Who Resides East of Washington  
Street and North of King Street

(A copy of the above appointments is on file in the Office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 1 of Item No. 6 (a-k); 6/26/07, and is incorporated as part of this record by reference.)

**(Reports and Recommendations of the City Manager)**

7. Receipt of the FY 2005 and 2006 Annual Reports and the Strategic Plan 2007-2015 From the Alexandria Archaeological Commission.

(A copy of the City Manager's memorandum dated June 18, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 6/26/07, and is incorporated as part of this record by reference.)

8. Submission of a Grant Application to the Keep America Beautiful, Inc., Graffiti Hurts National Grant Program.

(A copy of the City Manager's memorandum dated June 18, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 6/26/07, and is incorporated as part of this record by reference.)

9. Consideration of the Alexandria Community Service Board's Amended FY 2008 Plan of Services, Which Includes the FY 2008 Performance Contract With the State and a Report on the Status of the Board's FY 2004-2008 Housing Plan.

(A copy of the City Manager's memorandum dated June 18, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 6/26/07, and is incorporated as part of this record by reference.)

10. Consideration of Monthly Financial Report for the Period Ending May 31, 2007.

(A copy of the City Manager's memorandum dated June 18, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 6/26/07, and is incorporated as part of this record by reference.)

11. Consideration of Authorization of Recommended Capital Project Allocations and Planned Expenditures.

(A copy of the City Manager's memorandum dated June 18, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 6/26/07, and is incorporated as part of this record by reference.)

12. Submission of a Renewal Grant Application to the Virginia Department of

Environmental Quality for FY 2008 Pass-Through Funding From the U.S. Environmental Protection Agency for the City of Alexandria Air Pollution Control Program.

(A copy of the City Manager's memorandum dated June 20, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12; 6/26/07, and is incorporated as part of this record by reference.)

13. Consideration of Alexandria Fund for Human Services FY 2008 and FY 2009 Grant Awards.

(A copy of the City Manager's memorandum dated June 18, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 6/26/07, and is incorporated as part of this record by reference.)

14. Consideration of a Grant Application to the U.S. Environmental Protection Agency, State and Tribal Assistance Grants Program for a Bioretention Area at Four Mile Run and a Green Roof at Cora Kelly Magnet School.

(A copy of the City Manager's memorandum dated June 19, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 6/26/07, and is incorporated as part of this record by reference.)

15. Consideration of Results of the FY 2007 Fair Housing Tests.

(A copy of the City Manager's memorandum dated June 18, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 6/26/07, and is incorporated as part of this record by reference.)

16. Consideration of Membership Changes for the Alexandria Commission on HIV/AIDS and Request for the City Attorney to Prepare the Necessary Ordinance Change.

(A copy of the City Manager's memorandum dated June 20, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 16; 6/26/07, and is incorporated as part of this record by reference.)

## **END OF CONSENT CALENDAR**

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council approved the consent calendar, with the exception of docket items #6i and 13, which were considered under separate motions. The City Manager's recommendations were as follows:

6. City Council made the following appointments; (a) appointed Robert Freedman as the one citizen member to the Alexandria Beautification Commission; (b)

reappointed Arthur Keleher as the one citizen member to the Alexandria Board of Architectural Review - Old and Historic District; (c) reappointed Douglas Meick and Philip Moffat as the two citizen members to the Alexandria Board of Architectural Review - Parker-Gray District; (d) reappointed Edward McKinney as the one citizen member to the Alexandria Carr/Norfolk South (Carlyle) Design Review Board; (e) appointed Cynthia Lake as the one representative of the Emergency Medical Services Council, Medical Reserve Corps or a person with emergency medical response experience to the Alexandria Citizen Corps Council; (f) reappointed Bonita Bernstein as the one member from and representing the Hospice of Northern Virginia to the Alexandria Commission on HIV/AIDS; appointed Mary Parker as the one representative of the Alexandria Commission on Aging to the Alexandria Commission on Persons with Disabilities; (h) reappointed Ruth Chamowitz and appointed Joseph Dunn as the two citizen members, and reappointed Mary Morrow-Bax, Dana Payne and Mary Weber as the three consumers (current or former direct recipients of public or private mental health, mental retardation or substance abuse treatment rehabilitation services) or family members (immediate family members or the principal caregiver who is not paid) to the Alexandria Community Services Board; (j) waived the residency requirement and reappointed James Vafier as the Alexandria Operational Medical Director to the Alexandria Emergency Medical Services Council; and (k) reappointed Jay Atkinson as the one citizen representative who resides east of Washington Street and north of King Street to the Alexandria Waterfront Committee.

7. City Council received the report and Strategic Plan of the Alexandria Archaeological Commission and thanked the Commission for their efforts on behalf of the City.

8. City Council authorized the City Manager to: 1. submit a grant application, in the amount of \$2,000 to Keep America Beautiful, Inc.'s Graffiti Hurts National Grant Program; and 2. execute all necessary documents that may be required.

9. City Council approved the Board's amended FY 2008 Plan of Services, which includes approval of the performance contract with the State and a net increase of 1.75 revenue-supported FTE's.

10. City Council received the monthly financial report for the period ending May 2007.

11. City Council authorized the capital project allocations and planned expenditures for the capital projects as detailed in the Capital Improvement Expenditure Summary.

12. City Council authorized the City Manager to: 1. submit a renewal grant application to the Virginia Department of Environmental Quality for FY 2008 pass-through funding from EPA, in the amount of \$39,630 for the City of Alexandria Air Pollution Control Program; and 2. execute all necessary documents that may be

required.

14. City Council authorized the City Manager to: 1. submit a grant application to the U.S. Environmental Protection Agency for State and Tribal Assistance Grant (STAG) funding in the amount of \$192,850, to be matched by City funding in the amount of \$157,786 for implementation of these best management practice retrofits; and 2. execute all necessary documents and agreements that may be required to receive this funding under this grant program.

15. City Council accepted the results of fair housing tests conducted in fiscal year 2007 for discrimination in rental apartments based on race and national origin.

16. City Council: 1. approved the membership change which: (1) deletes the designated positions for members representing the Alexandria Interfaith Association, Inova Visiting Nurses Association Home Health Care, Public Health Advisory Commission, and Alexandria Redevelopment and Housing Authority; and (2) broadens the qualification for the high school member to allow for students from any high school within the City limits; and 2. request the City Attorney to prepare the necessary ordinance for introduction and first reading at the September 10 legislative meeting.

The voting was as follows:

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

6. Uncontested Appointments to Boards, Commissions and Committees:

- (i) Alexandria Convention and Visitors Association Board of Governors
  - 1 At-Large Member
  - 1 Retail Business Owner/Manager Representative
  - 1 National or International Trade or Professional Association Executive

(A copy of the above appointments is on file in the Office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 1 of Item No. 6 (a-k); 6/26/07, and is incorporated as part of this record by reference.)

Councilman Smedberg said on the at-large position, they had discussed encouraging residents to fill those positions, and he asked if the organization reached out to people in the City.

Citizen Assistance Director Boyd said the positions are advertised as all other positions are advertised, but whether the ACVA did something in addition to what they normally do, she did not know.

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried unanimously, City Council: waived the residency requirement and reappointed Charlotte Hall as the one at-large member, waived the residency requirement and reappointed Robert Lorensen as the one retail business owner/manager representative, and appointed Suzanne Cook as the one national or international trade or professional association executive to the Alexandria Convention and Visitors Association Board of Governors. The voting was as follows:

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

13. Consideration of Alexandria Fund for Human Services FY 2008 and FY 2009 Grant Awards.

(A copy of the City Manager's memorandum dated June 18, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 6/26/07, and is incorporated as part of this record by reference.)

Mr. Frazier, Youth Services, Department of Human Services, made a presentation of the staff report and responded to questions of City Council.

**WHEREUPON**, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously, City Council: 1. received the report of the Alexandria Fund for Human Services grant awards, which includes the Children's Fund, Youth Fund and Community Partnership Fund for FY 2008 and FY 2009 grant awards; and 2. thanked the members of the citizen review panels of the Early Childhood Commission, Youth Policy Commission and Community Partnership Fund for their leadership in the allocation process. The voting was as follows:

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

## **OTHER**

17. Receipt of Report and Verbal Update on the Historic Preservation Conference and Update on the Status of the Historic Preservation Initiatives.

(A copy of the City Manager's memorandum dated June 21, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 17; 6/26/07, and is incorporated as part of this record by reference.)

Ms. Ellen Stanton, co-chair of the committee and chair of the Historic Alexandria Resources Commission, gave a report on the conference and she, along with Mr. Jinks, Deputy City Manager, responded to questions of City Council.



**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Smedberg and carried unanimously, City Council received the report from the Alexandria Historic Preservation Conference Committee and thanked them for their efforts on behalf of the City. The voting was as follows:

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

Ms. Stanton passed out to Council the children's activity book published by the Historic Alexandria Resources Commission that is being sold at historic sites and the Visitors Center.

### **CONTESTED APPOINTMENTS**

18. Alexandria Board of Architectural Review - Old and Historic District  
2 Architects

(The following persons volunteered for appointment to the above Commission)

NAME:	ENDORSED BY:
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Wayne Neale  
R. Douglas Smith  
James Spencer  
Michael Wheeler

(Material pertaining to the above appointment is on file in the Office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 1 of Item No. 18; 6/26/07, and is incorporated as part of this record by reference.)

**WHEREUPON**, ballots were distributed, tellers were appointed and the ballots tallied with the following results: City Council appointed Wayne Neale as one of the two architects on the Alexandria Board of Architectural Review - Old and Historic District (the second architect position did not have a majority vote and therefore, there had to be a second balloting: The voting was as follows:

Euille	-	Neale, Wheeler
Pepper	-	Neale, Spencer
Gaines	-	Neale, Wheeler
Krupicka	-	Neale, Spencer
Lovain	-	Neale, Wheeler
Smedberg	-	Neale, Spencer

**WHEREUPON**, ballots were again distributed, tellers were again appointed and

the ballots tallied with the following results: City Council appointed James Spencer as one of the two architects on the Alexandria Board of Architectural Review - Old and Historic District. The voting was as follows:

Euille	-	Wheeler
Pepper	-	Spencer
Gaines	-	Spencer
Krupicka	-	Spencer
Lovain	-	Spencer
Smedberg	-	Spencer

19. Alexandria Budget and Fiscal Affairs Advisory Committee  
3 Citizen Members

(The following persons volunteered for appointment to the above Commission)

NAME:	ENDORSED BY:
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Jon Altshul  
Mark Feldheim  
Dennis Jones  
Raun Lazier  
Vikash Mohan  
Matthew Tallmer  
Michael Wenk

(Material pertaining to the above appointment is on file in the Office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 1 of Item No. 19; 6/26/07, and is incorporated as part of this record by reference.)

**WHEREUPON**, ballots were distributed, tellers were appointed and the ballots tallied with the following results: City Council reappointed Mark Feldheim, Dennis Jones and Matthew Tallmer as the three citizen members to the Alexandria Budget and Fiscal Affairs Advisory Committee. The voting was as follows:

Euille	-	Feldheim, Jones, Tallmer
Pepper	-	Feldheim, Jones, Wenk
Gaines	-	Feldheim, Jones, Tallmer
Krupicka	-	Feldheim, Jones, Tallmer
Lovain	-	Feldheim, Jones, Tallmer
Smedberg	-	Feldheim, Jones, Tallmer

20. Alexandria Commission on Employment  
2 Business Representatives From Among Recognized Area Businesses,  
Including Minority-Owned and Small Businesses

(The following persons volunteered for appointment to the above Commission)

NAME:

ENDORSED BY:

James Shank  
Davis Svec  
Jacqueline Woodard

(Material pertaining to the above appointment is on file in the Office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 1 of Item No. 20; 6/26/07, and is incorporated as part of this record by reference.)

**WHEREUPON**, ballots were distributed, tellers were appointed and the ballots tallied with the following results: City Council reappointed Jacqueline Woodard and James Shank as the two business representatives from among recognized area businesses, including minority-owned and small businesses to the Alexandria Commission on Employment. The voting was as follows:

Euille	-	Woodard, Shank
Pepper	-	Woodard, Shank
Gaines	-	Woodard, Shank
Krupicka	-	Woodard, Svec
Lovain	-	Woodard, Shank
Smedberg	-	Woodard, Svec

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Smedberg and carried unanimously, City Council reconsidered the second business representative appointment, that of James Shank, after the vote was taken, noting that this position will be made at the first legislative meeting in September, and therefore only the appointment of Jacqueline Woodard would be made at this time. The voting was as follows:

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

21. Alexandria Environmental Policy Commission  
2 Citizens-at-Large

(The following persons volunteered for appointment to the above Commission)

NAME:

ENDORSED BY:

Jerome Casagrande  
Patrick Hagan

David Williamson

(Material pertaining to the above appointment is on file in the Office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 1 of Item No. 21; 6/26/07, and is incorporated as part of this record by reference.)

**WHEREUPON**, ballots were distributed, tellers were appointed and the ballots tallied with the following results: City Council reappointed Jerome Casagrande and Patrick Hagan as the two citizens-at-large to the Alexandria Environmental Policy Commission. The voting was as follows:

Euille	-	Casagrande, Hagan
Pepper	-	Casagrande, Hagan
Gaines	-	Casagrande, Hagan
Krupicka	-	Casagrande, Hagan
Lovain	-	Casagrande, Hagan
Smedberg	-	Casagrande, Hagan

## **PUBLIC HEARING**

22. Public Hearing, Second Reading and Final Passage of an Ordinance to Provide for Smoke-Free Restaurants. (#19, 6/16/07) **[ROLL-CALL VOTE]**

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 22; 6/26/07, and is incorporated as part of this record by reference.)

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 22; 6/26/07, and is incorporated as part of this record by reference.)

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

(a) Rick Dorman, representing the Alexandria Chamber of Commerce, spoke in opposition to the SUP process for smoke free restaurants.

(b) Scott McClary, vice chair of government relations for the Alexandria Chamber of Commerce, spoke of the Chamber's commitment to work with the Council and the General Assembly regarding local, regional or statewide approaches to this issue, and he also noted that restaurants with pending special use permits have received requests from staff to comply with the terms of the ordinance before it is being acted upon.

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

was as follows:

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

**WHEREUPON**, upon motion by Councilman Gaines and seconded by Vice Mayor Pepper, City Council moved to pass the ordinance to provide for smoke-free restaurants.

Councilman Krupicka noted an amendment received from the City Attorney to read as follows: page 1, line 41: insert, after "cover," the words "and which does not permit patron or employee smoking within areas, or at seats or tables, located in the public right-of-way and used or controlled by the restaurant under permit or license from the City."

It was noted that the motion included the amendment.

The voting was as follows:

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

The ordinance reads as follows:

#### ORDINANCE NO. 4493

AN ORDINANCE to amend and reordain Section 2-100 (DEFINITIONS) of Article 2 (DEFINITIONS); by adding Sections 2-190.1 and 2-190.3, (RELATING TO SMOKE-FREE RESTAURANTS), and to amend and reordain Article VII (SUPPLEMENTAL ZONE REGULATIONS), by adding thereto a new Section 7-2200 (SMOKE-FREE RESTAURANTS REQUIRED), of the City of Alexandria Zoning Ordinance (TA No. 2007-0003).

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2007-0003, the city council initiated on its own motion and referred to the Planning Commission a text amendment to provide for smoke-free restaurants as a special or permitted zoning use in the City of Alexandria, and to categorize restaurants which are not smoke-free as nonconforming uses, and
2. The Planning Commission and City Council have approved the adoption of Text Amendment No. 2007-0003, and
3. Adoption of this ordinance is necessary and appropriate to protect and

promote the health, safety and general welfare of residents, workers and visitors to the City, and to protect and promote the economic well being of the City and restaurant businesses within the City, which are part of and compete in the Washington, D.C. metropolitan region, and

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

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

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

- 2-190.1 Restaurant, smoke-free. A restaurant which does not permit patron or employee smoking within or on the premises, including without limitation in any bar, lounge, dining, waiting, storage or other enclosed area, or area under permanent roof or cover, and which does not permit patron or employee smoking within areas, or at seats or tables, located in the public right-of-way and used or controlled by the restaurant under license or permit from the city.
- 2-193.1 Smoking. The act of smoking or carrying a lighted or smoldering cigar, cigarette or pipe of any kind, or lighting a cigar, cigarette or pipe of any kind.

Section 2. That Article VII of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto the following new section:

Section 7-2200 Smoke-free restaurants required.

- 7-2201 Any new restaurant for which a special use permit pursuant to Section 11-500, or for which an administrative permit pursuant to Section 6-600, Section 6-700 or Section 6-800, or for which a building permit pursuant to Section 4-700 of this ordinance, is approved after [effective date] shall, as a condition of such permit, agree to operate as a smoke-free restaurant.
- 7-2202 Any restaurant existing on July 1, 2008 for which a special use permit pursuant to Section 11-500, or for which an administrative permit pursuant to Section 6-600, Section 6-700 or Section 6-800, or for which a building permit pursuant to Section 4-700 of this ordinance, is approved, reviewed or amended after July 1, 2008 shall, as a condition of such permit, agree to operate as a smoke-free restaurant, within three months after the approval, review or amendment of such permit.
- 7-2203 Every restaurant with outdoor seating located in the public right-of-way existing on July 1, 2008 shall, as a condition of the continued right to use

the public right-of-way, agree to operate as a smoke-free restaurant within three months after July 1, 2008.

- 7-2203 Every grandfathered restaurant existing on July 1, 2008 shall, as a condition of the continued right to be classified as a grandfathered use, agree to operate as a smoke-free restaurant within three months of July 1, 2008.
- 7-2204 Every restaurant existing on July 1, 2008 for which a special use permit pursuant to Section 11-500, or for which an administrative permit pursuant to Section 6-600, Section 6-700 or Section 6-800, or for which a building permit pursuant to Section 4-700 of this ordinance, has been approved, shall agree to operate as a smoke-free restaurant within three months of July 1, 2008.
- 7-2205 Every restaurant which is not a smoke-free restaurant as required pursuant to Section 7-2203 and Section 7-2204 shall be classified as a nonconforming use subject to Section 12-214 of this ordinance.
- 7-2206 For purposes of this Section 7-2200, a restaurant existing on July 1, 2008 shall not be deemed to include a new restaurant at the same location as a restaurant which operated on July 1, 2008. Indicia of a new restaurant shall include, without limitation, a change in ownership or control, a change in name, a change in Virginia Alcoholic Beverage Control Board licensee, or a change in type or style of cuisine.
- 7-2207 The provisions of this Section 7-2200 shall preempt any contrary provisions of the City Code or this ordinance.
- 7-2208 Notwithstanding any contrary provision of this Section 7-2200, a restaurant which, on May 1, 2007 and thereafter, has in operation a completely separate and independent HVAC system, to service all areas of the restaurant in which smoking is permitted, exclusive of all non-smoking areas, shall comply with the provisions of this Section 7-2200 within five years of July 1, 2008.
- 7-2209 The provisions of this Section 7-2200 shall not become effective unless reenacted by the City Council during the legislative session commencing in September 2007, and if so reenacted, the effective date of this Section 7-2200 shall be July 1, 2008.

Section 3. That Section 2-100 and Article VII of the City of Alexandria Zoning Ordinance, as amended by this ordinance, be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective as provided in Section

7-2209, above.

## REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER FOR DISCUSSION

23. Deferred from the June 16, 2007 Council Meeting:  
TEXT AMENDMENT #2007-0004  
OUTDOOR DINING  
Public Hearing and Consideration of request to amend Section 6-800 of the Zoning Ordinance, the King Street Outdoor Dining Overlay Zone. Staff: Department of Planning and Zoning.  
PLANNING COMMISSION ACTION: Recommend Approval 5-0

(A copy of the City Manager's memorandums dated June 22, 2007, are on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 23; 6/26/07, and are incorporated as part of this record by reference.)

Questions were asked by City Council regarding the fee, the barstools and high tables, colors, which were answered by Deputy Director of Planning and Zoning Josephson.

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation, with the following amendments: addition of a fee of \$100 with \$1.50 per square foot for new applications and renewals; to use the definition of furniture colors and what "vivid" and "fluorescent" colors mean; and to follow staff's guidance on banning bar stools, tall chairs and tables, which doesn't start until the next season. The voting was as follows:

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

24. Introduction, First and Second Reading, Public Hearing and Final Passage of an Emergency Ordinance to Amend the City's Zoning Ordinance by Adopting Amendments to the King Street Outdoor Dining Regulations. **[ROLL-CALL VOTE]**

(A copy of the City Attorney's memorandum dated June 23, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 24; 6/26/07, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an emergency ordinance to amend the City's Zoning Ordinance by adopting amendments to the King Street Outdoor Dining Regulations, making the end date the Monday before Thanksgiving and keeping the uniformity rule for existing encroachments. The voting



was as follows:

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

The ordinance reads as follows:

#### ORDINANCE NO. 4494

AN EMERGENCY ORDINANCE to amend and reordain Section 6-800 (KING STREET OUTDOOR DINING OVERLAY ZONE), of Article VI (SPECIAL AND OVERLAY ZONES), of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2007-0004.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2007-0004, the planning commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, on its own motion initiated an amendment to the regulations for the King Street Outdoor Dining Overlay Zone;

2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;

3. An emergency exists by virtue of the fact that the amended regulations are required to be adopted and in force and effect during the busy Summer 2007 season in order to secure the appropriate balance between competing uses in and along the public right-of-way, and, absent the adoption of this emergency ordinance, this balance cannot be maintained and enforced during the Councils summer recess, and

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

#### THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 6-800 of the City of Alexandria Zoning ordinance, be, and the same hereby is, amended to read as follows:

#### Sec. 6-800 King Street Outdoor Dining Overlay Zone

6-801 *Purpose.* The King Street Outdoor Dining Overlay Zone is intended to facilitate outdoor dining in Old Town in order to create an active street scape, enhance the economic and social vitality of King Street, and

promote pedestrian and retail friendly activity; to allow for the use of the public right of way for such outdoor dining; and to expedite the approval of such facilities while ensuring that the public's use of the sidewalks will not be significantly impaired by such dining, and that adjacent commercial and residential uses will be protected from any adverse impacts from such dining.

6-802 *Application of overlay zone.* The King Street Outdoor Dining Overlay Zone includes the King Street corridor, from the Potomac River to the intersection of King Street and Daingerfield Road, and along all streets intersecting therewith, north to Cameron Street and south to Prince Street, as shown on the map entitled, King Street Outdoor Dining Overlay Zone, dated June 21, 2005.

6-803 *Administrative permit availability.* The requirements of obtaining approval of a special use permit under section 11-500 of this ordinance and of obtaining approval of an individual encroachment ordinance under section 5-2-29 of the city code otherwise applicable, shall not apply to outdoor dining facilities that meet the requirements of this section 6-800 and for which an administrative permit is approved pursuant to this section.

6-804 *Administrative permit process.*

- A. An applicant for an outdoor dining permit shall file an application with the director on such forms and subject to such procedures as the director may establish for the purpose.
- B. The application shall include a plan with dimensions showing the layout for the outdoor dining area which accurately depicts the existing sidewalk conditions, including sidewalk width from building face to curb; location and dimensions of tree wells; locations of lamp posts, traffic and parking signs, signal poles, trash receptacles, benches, and other sidewalk features or obstructions, as well as design, location, size and space of the dining area, chairs, tables, barriers, umbrellas and other facilities to be located within the outdoor dining area, and such additional information as the director may reasonably require.
- C. The director shall review the application to determine if the proposed dining establishment, and any encroachment into the public right of way, will be reasonable, attractive, and promote pedestrian and retail friendly vitality in the King Street corridor, and that there is adequate space remaining within the public right of way to facilitate safe circulation of pedestrian traffic.
- D. The director may approve, approve with conditions, or deny the

application. The approved plan and permit shall be posted at the restaurant premises, and visible to customers and the public.

- E. No material change to the approved plan shall be made without prior written approval by the director.
- F. The outdoor dining permit shall be valid only between April 1 and the Monday before Thanksgiving of each calendar year, and shall be renewed on an annual basis. A permit fee, established pursuant to section 11-104 of this ordinance, and based on the gross square feet of outdoor dining area, plus a minimum processing fee, shall be assessed annually.

6-805 *Standards for outdoor dining.*

- A. The outside dining area is to be attractive, and promote pedestrian and retail friendly vitality in the King Street corridor.
- B. The outside dining area shall be located adjacent to the property of an existing and lawfully operating restaurant and shall be under the responsible direction and control of the restaurant. It may be located adjacent to the building or near the curb but shall be contained within the location delineated by the permit.
- C. If the outdoor dining area is in a location on the property that is not in the sidewalk area in front or on the side of the restaurant, it shall be reviewed to determine whether its location supports the purpose of the zone to create an active street scape and to protect residential areas from adverse impacts.
- D. The total number of seats (both indoor and outdoors) shall not exceed the restaurants previously approved maximum number of seats by more than 20 seats, and the number of seats permitted is dependent on the amount of space available and on building and fire code requirements. Any increase in number of seats for outdoor dining in the public sidewalk approved under this section shall not be deemed by the director to constitute an intensification of use.
- E. The outdoor dining area may be open to patrons from 6:00 a.m. to 11:00 p.m. daily.
- F. In order to allow adequate pedestrian traffic areas and emergency access around outdoor dining areas, the following dimensional requirements must be observed:

- (1) At least five feet, or such additional space as the director deems necessary, of unobstructed corridor space must be maintained past the outside dining area for sidewalk pedestrian traffic in order to ensure a clear pedestrian passageway along the sidewalk. In locations where the sidewalk provides additional width or where there are fewer obstructions, the director may require more than five feet. In order to achieve a continuous pedestrian walk way, the pedestrian passageway shall be a straight line, parallel to the building face and curb line, for the entire length of the dining area. The director may require additional measures that contribute to maintaining a straight and unobstructed pedestrian passageway along the entire block face.
  - (2) A space at least 44 inches wide for unobstructed ingress/egress must be maintained between any restaurant doorway and the pedestrian traffic corridor.
  - (3) Outdoor dining areas located near the sidewalk curb must leave at least two feet of unobstructed sidewalk depth between the curb and the outer dimension of the outdoor dining area.
  - (4) An unobstructed clearance of five feet must be maintained between a fire hydrant and any furniture or fixtures related to outdoor dining.
- G. The outside dining area must be kept sanitary, neat and clean at all times. It shall be free from accumulation of food, litter, snow, ice, and other potentially dangerous or unsanitary matter. The restaurant must participate in an approved rodent control program.
- H. No food preparation is permitted in the outside dining area.
- I. Tents or awnings are not permitted without obtaining a separate building permit. Table umbrellas are permitted if they do not have signs or advertisements on them, if the umbrellas are completely contained within the outdoor dining area, even when fully extended, and if the lowest dimension of the umbrella maintains a minimum vertical clearance of six feet, eight inches above the sidewalk to allow for patron and server circulation.
- J. No signs are permitted in the outside dining area except those signs that have a valid City permit.
- K. Loudspeakers outside are prohibited, and amplified sounds from

inside the restaurant must not be audible in any outside dining area on the public right of way.

- L. Any door leading into a restaurant may not be positioned to remain open or otherwise supported in an open position.
- M. The restaurant must comply with all applicable city, state and federal laws and regulations.
- N. In order to serve alcoholic beverages, an application must be approved by the Virginia Department of Alcoholic Beverage Control (ABC), and it will require the following:
  - (1) The dining area must have a sturdy enclosure.
  - (2) There must be only one well defined entrance to the outdoor dining area and it must be located directly in front of the egress doors.
  - (3) Customers are not permitted to carry their own alcohol to the outdoor dining area.
  - (4) The dining area must have adequate illumination during evening hours.
- O. The design of the outdoor dining facilities which are visible from the public street or way, shall comply with the following:
  - (1) All improvements (furniture and fixtures) used in an outdoor dining area on the public right of way must be readily removable without damage to the surface of the right of way.
  - (2) An outdoor dining area within the public right of way shall be contained by sturdy barriers in conformity with city standards.
  - (3) There shall be no penetration of the public sidewalk surfaces, except that the city will, following issuance of the permit, mark the corners of the approved outdoor dining area with conspicuous markers.
  - (4) The design of the area shall comply with any Board of Architectural Review approved design guidelines. The Boards guidelines shall provide reasonably objective guidance as to acceptable colors.

- (5) Furniture and enclosures may not be stored on the public right of way for extended periods, and must be removed from the right-of-way between the Monday before Thanksgiving and March 31 of the following calendar year.
- (6) No tables which are higher than 32 inches above the ground, or seating or stools for tables which are higher than 32 inches above the ground, shall be permitted in the public right-of-way. This paragraph shall be effective April 1, 2008.
- P. The director shall, on a case-by-case basis, require adjustments to the layout, dimensions, or distance from the property line of any outdoor dining area in order to ensure pedestrian visibility of the ground floor of buildings that adjoin those with outdoor dining areas.
- Q. The applicant shall comply with such additional reasonable terms as the director may include in the permit.
- R. The restaurant operator shall not permit smoking in outdoor dining areas located in the public right-of-way.

6-806 *Additional encroachment requirements.* An outdoor dining area located within the public right of way shall also comply with the following specific requirements for encroachments:

- A. Any such encroachment shall be subject to and conditioned upon the restaurant maintaining liability insurance, with commercially reasonable limits and coverages, including for its operation within the encroachment area, and permission to establish and maintain the encroachment shall not be construed to relieve the restaurant of liability for any negligence on the restaurants part on account of or in connection with the encroachment.
- B. By accepting the authorization granted by a permit authorized by this ordinance to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, the restaurant shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.
- C. The authorization granted by a permit approved under this 6-800 to establish and maintain the encroachment is not intended to

constitute, and shall not be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

- D. Neither the City of Alexandria nor any public utility company shall be responsible for damage to property encroaching into the public right of way during repair, maintenance or replacement of the public right of way or any public facilities or utilities in the area of encroachment.
- E. The authorization granted by a permit approved under this section to establish and maintain the encroachment shall be terminated whenever the City of Alexandria desires to use the affected public right of way for any purpose whatsoever and, by written notification, demands from the restaurant the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by the restaurant without cost to the City. If the restaurant shall fail or neglect to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of the restaurant, and shall not be liable to the restaurant for any loss or damage to the structure of the encroachment or personal property within the encroachment area, caused by the removal.
- F. No fees or charges imposed pursuant to sections 3-2-81 through 3-2-85 of the city code shall be applicable to encroachments authorized by this section 6-800, but the fee established pursuant to section 6-804(F) shall be applicable.

6-807 *Section controlling.* In order to establish a uniform set of regulations for outdoor dining in the public right-of-way, the provisions of this section 6-800 shall supercede and preempt conflicting provisions applicable in the public right-of-way, which are included in any encroachment ordinance, special use permit or administrative permit approved prior to June 26, 2007; provided, however, that nothing in this section 6-807 shall be deemed to reduce the number of seats approved by any such ordinance or permit.

Section 2. That Section 6-800 as amended by this ordinance be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which are on such date pending before any city department, agency or board, or before city council, shall apply to all such applications which may be filed

after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance; provided, however, that this emergency ordinance shall expire on December 31, 2007.

25. Receipt of the Report of the Committee to Review the Election Process in Alexandria for City Council and the School Board.

(A copy of the City Manager's memorandum dated June 21, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 25; 6/26/07, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council: 1. received the report and thanked the Committee for its work, and 2. scheduled it for comment at Council's public hearing meeting on October 13, 2007, along with asking for a staff analysis of the cost of going to full-time aides or at least two part-time aides when it comes back in October. The voting was as follows:

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

Councilman Krupicka said he would like a staff analysis of the cost of going to the full time aides when it comes back in October.

Councilman Gaines said for clarification, the Committee passed the ball back to Council on the issue of compensation, and he asked if a subcommittee would be formed with two Council members to review the issue, so that it has a position when it comes before Council.

Mayor Euille said the potential pay raise wouldn't start until the new Council in 2009, so it has time to deal with that matter.

26. Allocation of Funds from the FY 2008 Contingent Reserves for the Child Day Care Fee System.

(A copy of the City Manager's memorandum dated June 18, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 26; 6/26/07, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Gaines, seconded by Councilmember Lovain and carried unanimously, City Council allocated \$577,000 to the Department of Human Services from funds designated in FY 2008 contingent reserve to hire a Social Worker I in the Office for Early Childhood Development and to begin clearing the fee system waiting list. The voting was as follows:



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

27. Receipt of the Report of the City Manager's Small Business Task Force.

(A copy of the City Manager's memorandum dated June 21, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 27; 6/26/07, and is incorporated as part of this record by reference.)

Ms. Amy Harris White, co-chair of the Small Business Task Force, made a presentation of the Report.

**WHEREUPON**, upon motion by Councilman Gaines, seconded by Councilman Smedberg and carried unanimously, City Council received the final report, thanked the Small Business Task Force for their work, and requested that the City Manager report back to Council before the end of 2007 with an update on the status of the action recommendations. The voting was as follows:

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

28. Consideration of Report from the City Council's Naming Committee on Naming Opportunities to Recognize the Late Former Alexandria Mayor Frank E. Mann.

(A copy of the City Manager's memorandum dated June 22, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 28; 6/26/07, and is incorporated as part of this record by reference.)

Deputy Director of Recreation, Parks and Cultural Activities Blakeley, along with Deputy City Manager Evans, responded to questions of City Council.

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilmember Lovain and carried unanimously, City Council: 1. approved the recommendation of the Naming Committee to expand the use of the entrance to City Hall at Market Square as a place to locate plaques memorializing and honoring elected officials such as the late Frank E. Mann, former mayor, and to place a plaque honoring Mayor Mann in the entryway across from the plaques honoring City police officers, sheriff's deputies and firefighters who have died in the line of duty; 2. set for public hearing on September 15 the recommendation of the Naming Committee to name the City baseball field at Four Mile Run Park in honor of the late former Mayor Mann; and 3. request the Park and Recreation Commission to provide Council with its recommendation on the naming of the field before the September 15 public hearing. The voting was as follows:

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

29. Consideration of a City Bridge Loan to the Alexandria Redevelopment and Housing Authority (ARHA) to Pay Off the Mortgage for ARHA'S Glebe Park Property, To Prevent HUD Foreclosure.

This item was deferred.

30. Consideration of Funding Application for the Construction of Beasley Square, an Affordable Senior Housing Project, by Harambee Community and Economic Development Corporation.

(A copy of the City Manager's memorandum dated June 18, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 30; 6/26/07, and is incorporated as part of this record by reference.)

Housing Director Davis made a presentation of the staff report and she, along with Deputy Director of Housing McIlvane, responded to questions of City Council.

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council approved a new loan allocation of \$806,500 to Harambee for the construction of Beasley Square, an eight unit affordable rental development to serve low income seniors, as follows: a. the loan will be funded from City Housing Opportunities Fund (HOF) and will be combined with previous funding of \$232,500 for a total loan of \$1,039,000; b. the City's total loan will be converted to an interest-only loan at 2 percent interest with interest and principal to be repaid on a residual receipts basis, with the first payment to the City beginning five years after Harambee closes on permanent financing; c. the property shall remain affordable to senior households at or below 60 percent of the Washington area median income for the length of Harambee's ownership, but in no event less than 40 years. It is anticipated that the project will serve seniors (62 years or older) with Section 8 Housing Choice Vouchers; d. The City's loan is contingent upon Harambee demonstrating to the satisfaction of the Director of the Office of Housing, that it has secured sufficient additional construction and permanent financing commitments from other sources to successfully complete construction of the project. The voting was as follows:

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

31. Consideration of Funding Application for the Acquisition of Longview Terrace Apartments by Robert Pierre Johnson Housing Development Corporation (RPJ.)

(A copy of the City Manager's memorandum dated June 18, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 31; 6/26/07, and is incorporated as part of this record by reference.)

Councilman Krupicka noted a gentleman present who had specific concerns about parking, and he wanted to make sure Transportation and Environmental Services, as well as RPJ, works with the community to make improvements in the area.

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council approved a loan of \$3,200,000 to RPJ for the acquisition of the 41 unit Longview Terrace Apartments, as follows: a. the loan will be an interest-only loan at two percent interest for the first five years after RPJ closes on permanent financing, with interest and principal to be repaid on a residual receipts thereafter (given the property's projected cash flow, RPJ estimates full loan payoff would occur around year 24); b. the property shall remain affordable to households at 60 percent of the Washington area median income for the length of RPJ's ownership, but in no event less than 40 years. To avoid displacement, when current tenants who earn more than 60 percent of the median income vacate the property, they will be replaced by income-qualified households; c. in the event RPJ elects to sell the property, RPJ shall offer the right of first refusal to the City, or its designee; and d. authorized the loan to be funded by City issued general obligation bonds financed by the revenues from the one-cent in real estate taxes dedicated for affordable housing. The voting was as follows:

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

32. Consideration of a Request to Provide Funding to Continue Youth Programs at Essex House.

(A copy of the City Manager's memorandum dated June 18, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 32; 6/26/07, and is incorporated as part of this record by reference.)

Mr. Frazier, Youth Services, Department of Human Services, made a presentation of the staff report and he responded to questions of City Council.

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council allocated \$40,000 from the FY 2007 General Fund Contingent Reserves to provide funding to the Alexandria Olympic Boys and Girls Club so that their Essex House Youth Program can continue. The voting was as follows:

Pepper	"aye"	Krupicka	"aye"
Gaines	"aye"	Lovain	"aye"

Euille "aye" Smedberg "aye"

33. Consideration of Staff Report on the National Park Service Jones Point Park Report and Their Schedule for Receipt of Comments.

(A copy of the City Manager's memorandum dated June 21, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 33; 6/26/07, and is incorporated as part of this record by reference.)

Director of Recreation, Parks and Cultural Activities Kincannon made a presentation of the staff report and responded to questions of City Council.

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried 5-1, City Council authorized the Mayor to respond on behalf of the City, to the National Park Service (NPS) draft Jones Point Park Environmental Assessment (JPP EA) and reiterate the City's position as reaffirmed at the City Council meeting on October 10, 2006. The Draft Environmental Assessment is scheduled to be released on June 27, 2007, with slightly longer than a 30-day NPS-set comment period that will end July 30, 2007. The voting was as follows:

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

34. Consideration of a License Agreement to Permit Fibergate of Virginia, LLC, to Install Fiber Optic Cable in Existing Conduits in the Public Right-of-way.

(A copy of the City Attorney's memorandum dated June 21, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 34; 6/26/07, and is incorporated as part of this record by reference.)

Assistant City Attorney Snow, along with Director of Transportation and Environmental Services Baier, and Mr. Bill Boyle, president of Fibergate, responded to questions of City Council.

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council approved the five-year license agreement with Fibergate of Virginia, LLC., and authorized the City Manager to execute the license agreement and to take any other actions that are necessary to implement the agreement. The voting was as follows:

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

- 34.1 Approval of the Authority of the City Manager to Enter into a Memorandum of

Understanding with the Alexandria City Public Schools for the Department of Recreation, Parks and Cultural Activities to Provide Outdoor Maintenance Services at City Schools.

(A copy of the City Manager's memorandum dated June 21, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 34.1; 6/26/07, and is incorporated as part of this record by reference.)

City Manager Hartmann, along with Director of Recreation, Parks and Cultural Activities Kincannon, responded to questions of City Council.

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council authorized the City Manager to enter into a Memorandum of Understanding substantially in the form as attached with the Alexandria City Public Schools (ACPS) for the Department of Recreation, Parks and Cultural Activities to provide outdoor maintenance services to ACPS if such a final agreement can be reached with the ACPS before City Council's next legislative meeting in September of 2007. The voting was as follows:

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

## **REPORTS AND RECOMMENDATIONS FROM BOARDS, COMMISSIONS AND COMMITTEES**

None

The following two items were heard together:

### **ORAL REPORTS BY MEMBERS OF CITY COUNCIL**

### **ORAL PRESENTATIONS BY MEMBERS OF CITY COUNCIL**

(a) Mayor Euille reported on his attendance at the U.S. Mayor's Annual Convention in Los Angeles last week, noting that the main theme of the conference was to focus on their ten point plan they developed in January, and there was a lot of discussion and presentation on greenhouse gas reduction, passing resolutions on immigration, climate agreements, tourism, economic development, transportation funding, funding for the arts and education issues. He said he hears from many mayors from across the country that when they come to Washington, they stay in Alexandria and note how beautiful the City is.

(b) Mayor Euille noted the tragic fire in Charleston, South Carolina, and said the City's Fire Department will be collecting donations until July 7, which will be forwarded to a memorial fund, and checks can be sent to box 24, attention Lt. David

Bogozi.

(c) Vice Mayor Pepper said she and Councilman Smedberg co-chair the workgroup that monitors the activities of the Mirant Plant. She said she received a phone call on Tuesday from David Paylor, the director of the Virginia DEQ to alert her that an engineering analysis had just been completed and it appeared that no permit would be needed to approve the stack merger plans that Mirant had brought forward. She said it wasn't even a month earlier that the State Air Pollution Control Board had granted an interim operating permit and part of that was not allowing for the stack merger plans at this time. Vice Mayor Pepper said it was amazing because there would be no public input and was told that on the following Monday (yesterday) that in Richmond, the decision would be made after a conference with the Governor's representatives in Richmond. She said she hoped the City Attorney would give an account of what happened since then and also an account of a court case where Mirant has sued the State Board, as well as DEQ as concerns the operating permit. She said one of the nice things that happened was that there was a rally on Saturday, and they were able to have a rally that was reasonably well attended.

City Attorney Pessoa said that on May 23, the State Air Pollution Control Board voted to impose a rather strict permit on the operation of the Mirant Plant that limits that plant to emitting 3,800 tons per year of So<sub>2</sub> and declined to approve for the third or fourth time the stack merger which Mirant is proposing. Mr. Pessoa said that last Tuesday, the staff, the Mayor and the Vice Mayor were notified that DEQ intended to completely circumvent the Air Board process and issue a determination that no permit was required for the stack merge to proceed. He said there was a meeting yesterday with the representative from the Governor's Office and the Attorney General's Office and the City argued that: 1. the agency had absolutely no authority to take this action, as the Air Board had divested the agency of that discretion when it elected to take direct control of the permitting process; 2. that the engineering report that the agency was propositing to rely on was completely inadequate and was issued by a person who has a track record of opposing environmental regulation; and 3. that the manner in which this was done involving a unilateral and precipitous and without any public opportunity for comment or input was completely arbitrary and capricious. Mr. Pessoa said that as a result of the meeting yesterday, they were informed that the department was reviewing those arguments and issues the City raised and was not going to issue a determination yesterday as originally forecast and would get back to the City in the future with their response. In addition, he said, Mirant filed a lawsuit challenging the merits and the authority of the Air Board to issue its decision, and the City has intervened in that action to defend the action of the Air Board, which was favorable to the City. Mr. Pessoa said the Mirant propaganda group has issued an attack on the Air Board, which calls the Air Board members a bunch of environmental extremists who are prejudiced against power plants, completely denigrating the efforts they devote largely on their own to protecting the health of the citizens in Virginia. Those arguments they have come forward with mimic the arguments in the storm engineering report that was the basis for DEQ's action. They also say that the Air Board came to the decision with minimal discussion, notwithstanding that they had five days of hearings and five

meetings to discuss the issue over the course of time. That is representative of the reaction of the power company to the decision by the Air Board and it is indicative of the need for the City's continued vigilance to protect and defend the decision of the Air Board.

Mr. Skrabak, Environmental Quality, Transportation and Environmental Services, said it is clear of Mirant's intent with the stack merger application and their own application when they submitted that to the State, it is actually to not just disperse the pollutants, but they want to increase production, resulting significantly increase the net emissions, and the concern the City has with approval by Virginia DEQ of the merger without a public hearing and public process was that it would significantly circumvent the new source review regulations, which don't allow emissions to increase without additional air pollution control equipment.

Councilman Smedberg said he didn't think people realize, they just hear stack merge and think they are putting two of the stacks together, but actually, the increased production, increased pollution and then circumventing the whole process and any kind of serious, comprehensive review is outrageous.

Vice Mayor Pepper said they did just about everything they possibly could - putting in a call to the Governor and contacting all of the legislators from Alexandria as well as Arlington.

Councilman Smedberg said he put in a call and had a lengthy discussion with Mark Reuben, the Governor's counselor, on Friday.

Mayor Euille said he signed a letter today that went to the Governor and said he will be in scheduled meetings on Tuesday, July 3 with the Governor on two other items, and this will be added to the agenda.

Councilman Smedberg said that after talking with Mr. Reuben for some time, there was a point that stuck with him, and he gave him a chronological history of the City's and the resident's experiences over the last four and a half to five years. Councilman Smedberg said he gave Mr. Reuben numerous examples of residents and staff having to do what should be the DEQ's own work.

(d) Councilmember Lovain said the Human Services Policy Committee of the Council of Governments began a study of the foster care in the region, and he was struck that the Virginia reimbursement rate for foster care families is way below that of D.C. and Maryland. For example, for a child four and under, it is \$326 a month where it is \$826 in D.C. He said he hoped it would be included in the legislative package for Richmond. He said it was noted that Arlington, for many years, has supplemented the State reimbursement by \$100 a month, and maybe that is something the City should consider.

Mayor Euille noted that the City does a supplemental to the child care.

Councilmember Lovain said they should try to encourage Alexandria families to participate in foster care.

(e) Councilmember Lovain said the Transportation Planning Board has MATOC, a program for Metropolitan Area Transportation Operations Coordination, which requires Virginia, Maryland, D.C. and Metro to talk to each other when they have a major incident, so it is now in someone's job description to consult with each other and to be sure they are coordinated. That agreement is now in place and that coordination will happen.

(f) Councilmember Lovain said they were briefed on the Co2 numbers that are being collected by COG in anticipation of addressing the climate change problem. The number one source of Co2 emissions in this country are electricity generating power plants, and the worse offenders are the dirty coal ones.

(g) Councilmember Lovain said they also had a briefing on the 14th Street project, which is now in an EIS phase, and they are looking at all possibilities to improve that corridor.

(h) Councilmember Lovain said he received a communication about half day preschools and whether there are things they can do to try to do, either through zoning changes or other creative thinking, to help out the preschools, as they don't have enough preschool space for the kids and the demand. He said he hoped they could look into some of those possibilities to see if there is more the City can do.

Mayor Euille said he would be bringing up this summer a suggestion that a couple members of Council can work with staff on just what he is suggesting, as it has gotten to be very critical.

(i) Councilman Smedberg said on the issue of buses, now that they have the National Harbor group in place, he was surprised that buses were not listed on it as an item of concern. He said they should start looking at that issue, as they are getting more complaints. It is not only the number of buses and where they are going but the size of the buses. He said Alexandria seems to be the only historic area that allows buses to go anywhere they want. Councilman Smedberg said they need to look at that issue over the summer and early fall.

(j) Councilman Smedberg said one thing that came up last night at the Woodrow Wilson Bridge meeting was the whole issue of trucks and jake-breaking. It was also mentioned that Tennessee and a number of other states have enacted legislation that gave localities the ability to put up signs, so maybe that is something the City should look at and talk to the State about having signs for that, as there are a number of trucks that go over the bridge.

(k) Councilman Smedberg said when looking at the board and commission



situation, as it looks at residents and some of the at-large slots, they need to look at groups like the Alexandria Convention and Visitors Association or the Alexandria Economic Development Partnership and look at their enacting legislation, to see how they can better promote residents and get interest among residents to be part of the process. He said he wasn't sure how far they are reaching out into the community, or, if someone in the community sees the advertisement and has an interest, are they considered by the groups.

Ms. Boyd, Director of Citizen Assistance, said that she did receive a phone call from a person who wanted to apply for an ACVA position, but was told by ACVA that he needed to be a member of the Association before they would endorse him.

Councilman Smedberg said this needs to be stepped up and look at the enabling legislation, particularly given the fact that they have a new executive director coming on board and there are other issues that the marketing sub-group are looking at in terms of how they promote themselves.

Mayor Euille said they need to schedule a work session in early September/October with staff and invite the chairs and executive directors of both organizations and it should have a discussion. He said they need to make sure the process is more open to attract residents.

(l) Councilman Krupicka updated Council on the City/School Board meeting last evening. The Schools reported back on the issue of track facilities at T.C. Williams, and the Schools intend to build a new track, but work will not start until next Spring and not be completed until next Summer. In the meantime, students will do satellite track usage with the partnering private schools in the City.

(m) Councilman Krupicka said that as related to the budget process, all have made comments to the Schools about the need for them to improve their budget format and make it more clear and understandable to the community. The answer is the Schools are doing it and making real progress and already have a draft.

(n) Councilman Krupicka said they discussed last night with the Schools the receipt of the Governor's School Evaluation Report, and the highlights were very favorable to the current School administration and the work they are doing and the way they are organizing Schools. The report includes recommendations for efficiency improvements and management changes and areas of emphasis to change. He said that while they did identify efficiencies, this report is the first audit of its kind by the Governor's Office that proposed more spending as opposed to less. He said the School Board chair said they would use it to guide their strategic planning and decision making. He said the Mayor has proposed having a work session with them early this year, in September, to start talking about budgets.

(o) Councilman Krupicka said that October 14 is the grand-opening of T.C. Williams, and a committee is working to create an amazing community event.

(p) Councilman Krupicka said that in talking with a number of residents on the West End, reading the economic sustainability draft report they received a week or so ago, with the Chamber, the business community and citizens, there is a very strong feeling that they are not making as much progress on the West End planning efforts as they would like to be making, and it struck him that they could be doing a better job in that area. He said a lot of the issue does come down to resources and capacity. Councilman Krupicka asked the City Manager to bring forward to the Council in September a proposal that would allow them to speed up the Eisenhower West planning process by adding additional staff and resources as necessary to make that happen. He said he believed Landmark and Van Dorn are on track to get done this year, but they also want to make sure Eisenhower West gets started as quickly as possible and finished as quickly as possible.

(q) Councilman Krupicka said that Carolyn Casson, who is a resident of Alexandria, applied for and received a \$2,000 grant from the Sierra Club to provide high efficiency light bulbs to affordable housing projects. He said Ms. Casson should be recognized for the hard work she's put into it.

#### **ORAL REPORT FROM THE CITY MANAGER**

City Manager Hartmann reported that: he has appointed Adam Thiel as the new Fire Chief and he will begin work August 6; and he has appointed Stephen Gordon as the Director of Procurement and he will begin work June 29.

#### **ORDINANCES AND RESOLUTIONS**

35. Consideration of a Resolution Establishing a City Position on Proposed Federal Legislation Providing Additional Flights and Changes to the Perimeter Rules at Reagan National Airport. **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated June 19, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 35; 6/26/07, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Krupicka and seconded by Councilman Smedberg, City Council moved adoption of a resolution opposing additional slots and perimeter rule changes at the Reagan Washington National Airport by supporting the position taken by the Metropolitan Washington Council of Governments (MWCOG.)

Mayor Euille noted that COG did copy area jurisdictions today with letters signed by Vince Gray, the chair of the COG Board of Directors, the letters to both Senator Inoué and John McCain, as they are chairs of the committees on commerce, science and transportation, asking for their support of the resolution.

Councilmember Lovain said he would abstain on the vote as his firm had multiple aviation clients who are interested in the underlying legislation. He said he is not working with any of the clients on the slots issue, but didn't want there to appear to be a conflict and would therefore abstain.

The voting was as follows:

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

The resolution reads as follows:

#### RESOLUTION NO. 2238

#### RESOLUTION REAFFIRMING OPPOSITION TO ADDITIONAL SLOTS AND PERIMETER CHANGES AT REAGAN WASHINGTON NATIONAL AIRPORT

WHEREAS, The City of Alexandria (City) has supported the Metropolitan Washington Council of Governments (COGs) long standing position on the governance and land use and noise compatibility policy at Reagan Washington National Airport; and

WHEREAS, the City supports maintaining the existing slot rule of 60 landings and takeoffs per hour and a non-stop 1,250 mile rule at Reagan Washington National Airport; and

WHEREAS, the City supports COG's Aviation Policy Committees role in providing a broad, balanced, and integrated perspective on matters relating to airport and aircraft policies in the Washington Metropolitan region; and

WHEREAS, the slot and high density rules have been effective in capping noise at Reagan Washington National Airport; and

WHEREAS, the current Reagan Washington National Part 150 Noise Exposure and Compatibility Study, which was submitted to the Federal Aviation Administration in 2004, was developed using existing high density and slot and perimeter rules for forecasting future operations at the airport; and

WHEREAS, the Part 150 Planning effort was a collaborative effort between the Metropolitan Washington Airports Authority and COG; and

WHEREAS, Reagan Washington National Airports important role in our region must be carefully balanced against its noise and environmental impacts on the residents of the region; and

WHEREAS, the metropolitan Washington region continues to be adversely

impacted by noise from Reagan Washington National Airport; and

WHEREAS, the Washington region has not requested expansion at Reagan Washington National Airport and has a stated policy of encouraging air expansion at Dulles National Airport; and

WHEREAS, the Washington Metropolitan Area Airports Authority does not support expansion at Reagan Washington National Airport.

NOW, THEREFORE, BE IT RESOLVED, that the City of Alexandria opposes efforts to usurp regional and local authority over airports; and

BE IT FURTHER RESOLVED, that the City of Alexandria reaffirms its position opposing additional slots and perimeter rule changes at Reagan Washington National Airport; and

BE IT FURTHER RESOLVED, that the City Clerk shall provide copies of this resolution to the Executive Director of the Metropolitan Washington Council of Governments; all members of the regional congressional delegation of the United States Congress; the Chair and members of the appropriate congressional committees; and the President of the United States.

36. Consideration of a Resolution on Developing a Fee Policy and Fee Increases For the Department of Parks, Recreation and Cultural Activities for FY 2008.  
**[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated June 21, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 36; 6/26/07, and is incorporated as part of this record by reference.)

Director of Recreation, Parks and Cultural Activities Kincannon, as well as Director of Management and Budget Johnson, responded to questions of City Council regarding the fees.

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council adopted a resolution for the recommended fee increases of non-programmatic fees and fees for youth sports participation and nonresident participation fees of RPCA, effective July 1, 2007, and allowing for future inflation related adjustments, with an amendment that any fee over the regional inflation rate, as measured by the Bureau of Labor Statistics, the CPIU, be brought back to City Council. The voting was as follows:

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

The resolution reads as follows:

RESOLUTION NO. 2239

Resolution to Update Non-Programmatic and Youth Sports and Nonresident Participation Fees Administered by the Department of Recreation, Parks and Cultural Activities

WHEREAS, the last increase in Non-Programmatic fees collected by the Department of Recreation, Parks and Cultural Activities (RPCA) occurred in fiscal year 2000;

WHEREAS, the other fees charged by the RPCA for special events and the marina have been more recently adjusted;

WHEREAS, the Youth Sports and Nonresident Participation fees are significantly below what other jurisdictions charge and the costs of providing those programs;

WHEREAS, the costs of providing these services to the general taxpayer continue to increase year-by-year and the fees do not cover the entire costs of these programs;

WHEREAS, future adjustments to these fees up to the rate of inflation should be administratively determined and permissible without the need for additional action by City Council;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Alexandria, Virginia, that the Non-Programmatic and Youth Sports and Nonresident Program Participation fees administered by the Department of Recreation, Parks and Cultural Activities shall be as updated beginning July 1, 2007, as follows:

Section (a) Room Rental Fees are hereby established as contained in Attachment 3.

Section (b) Pool Rental Fees are hereby established as contained in Attachment 3.

Section (c) Refundable Rental Security Deposit fees are hereby established as contained in Attachment 3.

Section (d) Rental Staff Support fees are hereby established as contained in Attachment 3.

Section (e) Athletic Field Rental fees are hereby established as contained in Attachment 3.

Section (f) Park Rental fees (for Oronoco Bay, Waterfront, Jones Point, and Brenman Parks) are hereby established as contained in Attachment 3.

Section (g) Mobile Stage Rental fees are hereby established as contained in Attachment 3.

Section (h) Chinquapin Park Recreation Center Admission fees are hereby established as contained in Attachment 3.

Section (i) Youth Sports Program Participation fees are hereby established as contained in Attachment 3.

Section (j) Nonresident Program Participation fees are hereby established as contained in Attachment 3.

Section (k) The three categories of users (Non-Resident, Resident, and City Departments/City-Sponsored or Co-Sponsored) for which fees may be assessed at different levels are hereby established as contained in Attachment 4.

Section (l) All Non-Programmatic fees established by sections (a) through (j) above may be adjusted periodically and administratively by the City Manager to take into account the effects of future inflation. Any such adjustment greater than the amount necessary to account for the effects of future inflation shall require the approval of City Council.

(1) The rate of inflation used shall be the most recently available monthly index of inflation (e.g. May) as measured by the Consumer Price Index for all urban consumers (CPI-U) for the Washington/Baltimore region divided by the CPI-U index number for July 2007 for the Washington/Baltimore region.

Such adjustments shall be made no more frequently than annually with an effective start date of July 1.

The adjustment may be made less frequently than annually if the change in the fee would otherwise be too small to implement each year.

The City Manager may adjust the actual fee charged to an amount approximately equal to that corresponding to the rate of inflation so that the actual fee can be rounded to an administratively convenient amount to assess and collect. For application in a future year, the inflation adjustment shall be recalculated using the formula established in section (1) above before any such rounding.

The City Manager may elect not to implement an inflation adjustment otherwise permissible under this section for any particular fee based upon considerations of equity, administrative convenience, newly implemented efficiencies in the operation of the activity, or competitive position vis-à-vis neighboring jurisdictions.

Any adjustment of a fee other than inflation adjustments administratively allowable under this section shall be approved by the City Council.

37. Deferred from the June 16, 2007 Council Meeting. Final Passage of an Ordinance to Codify the 2006 Change in Funding Level of the Open Space Trust Fund Account at One Percent of the Total Real Estate Tax Assessment in the City. (#20, 6/12/07, #28, 6/16/07)) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated June 5, 2007 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 37; 6/26/07, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 37; 6/26/07, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 37; 6/26/07, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to codify the 2006 change in funding level of the Open Space Trust Fund Account at one percent of the total real estate tax assessment in the City, with an amendment to subsection (d), to add the words "and capital expenditures including, but not limited to, demolition, clean-up, grading, engineering and design work, and the acquisition and installation of furniture, structures, landscaping, apparatus and facilities, for such use and improvement of the site." The voting was as follows:

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

The ordinance reads as follows:

#### ORDINANCE NO. 4495

AN ORDINANCE to amend and reordain Section 3-1-2 (OPEN SPACE TRUST FUND ACCOUNT) of Chapter 1 (GENERAL PROVISIONS) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

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

Sec. 3-1-2 Open Space Trust Fund Account.

(a) Establishment of account. There is hereby established for the City of Alexandria a permanent account within the Capital Projects Fund to be known and designated as The City of Alexandria Open Space Trust Fund Account, which account shall be accounted for and maintained separate and apart from all other accounts maintained by the City of Alexandria.

(b) Funding of account. There is hereby assigned and appropriated to such account, from January 1, 2007 until June 30, 2007, and for the fiscal year commencing July 1, 2007 and in each succeeding fiscal year, from the tax on real estate levied pursuant to section 3-2-181 of this Code, in addition to all other appropriations made to such account, if any, the sum of one percent of the total amount of tax so levied.

(c) Expenditures from account. Notwithstanding any contrary provision of law, appropriations from the said account shall be authorized and made exclusively to finance permanent open space public improvements included in the capital budget. 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.

(d) Open space public improvements defined. As used in this section, permanent open space public improvements means land acquired by the city in fee or by perpetual easement, and dedicated to outdoor recreational and park uses, whether active, passive or natural resource area, for the use of the general public, together with accessory buildings and structures incidental and subordinate to the outdoor recreational and park uses of such acquired land, and capital expenditures including but not limited to, demolition, clean-up, grading, engineering and design work, and the acquisition and installation of furniture, structures, landscaping, apparatus and facilities, for such use and improvement of the site.

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

38. Consideration of a Resolution Extending the Term of the Affordable Housing Initiatives Work Group. **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated June 18, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 38; 6/26/07, and is incorporated as part of this record by reference.)

Councilman Smedberg asked about a resident of the affordable housing units being on the panel, as it would be an interesting perspective to have.



Councilman Krupicka said the recommendation to have a resident is fine - they will be expanding some of their work with ARHA, and there will be more opportunities to bring more people in. It will be brought back to the group for its consideration.

**WHEREUPON**, upon motion by Councilman Gaines, seconded by Councilman Krupicka and carried unanimously by roll-call vote, City Council adopted a resolution extending the term of the Affordable Housing Initiatives Work Group through December 31, 2008 and repealed Resolution No. 2195 which established a work group on affordable and workforce housing, now known as the Affordable Housing Initiatives Work Group. The voting was as follows:

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

The resolution reads as follows:

#### RESOLUTION NO. 2240

WHEREAS, affordable housing is a high priority in the City of Alexandria as reflected in the City Council's Strategic Plan goal calling for a caring community that is diverse and affordable, and its related objective that an increased number of affordable housing units are available with emphasis on low and moderate income city workers, seniors, and individuals with disabilities; and

WHEREAS, the City operates a variety of affordable programs to make housing more affordable and also supports the production of affordable housing through various funding and land use mechanisms; and

WHEREAS, there are additional mechanisms for supporting affordable housing that merit further exploration for potential use in the City of Alexandria; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALEXANDRIA, VIRGINIA:

There is hereby established an ad hoc work group known as the Affordable Housing Strategy Work Group.

The composition of the work group shall include two members of City Council as liaisons, and 14 members, as follows: one member of the Affordable Housing Advisory Committee; one member of the Planning Commission; one member of the Alexandria Redevelopment and Housing Authority; one representative of the Alexandria Housing Development Corporation; one representative of Housing Action; one non-profit housing developer; one for-profit developer with affordable housing experience; one land use attorney with affordable housing experience; one person with expertise in

affordable housing finance; one Chamber of Commerce representative; one teacher, police officer, or City employee; one representative of the Commission on Persons with Disabilities, one representative from the Commission on Aging, and one civic association representative.

The term of the Work Group shall not extend past the sunset date of December 31, 2008.

Members of the Work Group shall be appointed by the Mayor, with input from other members of the City Council; provided, that a member who is the representative of an organization shall be nominated by the organization. The members appointed shall serve until the expiration of the term of the Work Group; provided, that a member who is the representative of an organization shall cease to be a member at such time that such member shall cease to be a member in good standing of the organization for which such member serves as representative and may be replaced by another representative appointed by the Mayor.

The Work Group will:

- (1) Review information on City demographics, and characteristics and affordability of the City's housing stock.
- (2) Review tools and mechanisms for affordable housing production and housing assistance, including those used in the City as well as elsewhere, to include:
  - rental assistance programs
  - home purchase assistance programs
  - other affordability programs for assistance to renters and homeowners
  - mechanisms for preservation of existing affordable housing
  - land use and financing tools for development of affordable rental housing
  - land use and financing tools for development of affordable sales housing
- (3) Review existing City goals and targets for affordable housing.
- (4) Make recommendations concerning the use of additional tools and mechanisms in Alexandria.
- (5) Make recommendations for new or modified affordable housing goals and targets, to include numbers of units to be developed or preserved with specific mechanisms, and specify the funding and other resources necessary to achieve these goals.
- (6) Make recommendations in regard to holistic long-range plans that are strategic in nature, including physical condition/capital needs, policy principles, financing and land use in regard to public housing.
- (7) The Work Group may adopt rules and regulations on procedure and other matters so long as same are not inconsistent with the City Code including, but not limited to, the establishment of sub-committees through which it may carry on its functions and purposes.
- (8) The mayor shall appoint from among the members a convenor, who shall

serve as chairman.

(9) The city manager shall designate City staff as needed to provide administrative and logistical support to the work group.

39. Consideration of Transfer Resolution for the FY 2007 General Fund Operating Budget. **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated June 21, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 39; 6/26/07, and is incorporated as part of this record by reference.)

City Attorney Pessoa explained the increase in the budget for the City Attorney's Office, and Director of Management and Budget Johnson explained the increases in the budgets for the Transportation and Environmental Services and Human Services Department.

Mayor Euille said they need a policy that on a quarterly basis, staff should routinely review the monthly report with Council, so Council can use it as a reference. He said there needs to be a policy that says that once a line item approaches 50 percent of its budget amount, it should be brought to the Council's attention at that time as opposed to the end of the fiscal year. It provides Council an opportunity to weigh in and focus, rather than doing it on the last day of the session.

Councilman Smedberg said there are some interesting items that could be articulated with bullets and highlights in the report, to bring special note to some of the items.

Councilman Krupicka noted that on item 26, Council allocated money for child care fee subsidy, and they received a letter from the chair of the Early Childhood Commission noting where they are still deficient in providing early childcare services in the community and expressing a desire to fund it. The point from the chair was that there are more needs in the community than they are currently meeting, and he hoped to work with the Early Childhood Commission and the business community and others over the course of next year in conjunction with the Governor's proposals on early childhood to bring forward suggestions as to ways they might be able to do more in that area in the next budget. Council just needs to find a way to do it that is fiscally responsible.

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Krupicka and carried unanimously by roll-call vote, City Council adopted a resolution for the FY 2007 General Fund Operating Budget, which transfers \$4,064,000 in budgeted funds to eight departmental accounts from seventeen departmental accounts. The voting was as follows:

Pepper	"aye"	Gaines	"aye"
Krupicka	"aye"	Lovain	"aye"

Euille "aye" Smedberg "aye"

The resolution reads as follows:

RESOLUTION NO. 2241

WHEREAS, certain appropriation accounts of the City of Alexandria, Virginia will be overexpended due to budgeting practices and unanticipated expenditures; and

WHEREAS, it is the desire of the City Council to take the action necessary to transfer budget authority among City departments to adjust these accounts;

NOW, THEREFORE, BE IT RESOLVED BY THE  
CITY COUNCIL OF ALEXANDRIA, VIRGINIA:

That the Director of Finance be and hereby is authorized to make the following appropriations transfers between the General Fund accounts designated:

TRANSFER APPROPRIATIONS FROM:

Non-Departmental	\$1,573,000
City Manager's Office	250,000
Health	170,000
Transportation and Environmental Services	200,000
Planning and Zoning	500,000
Office On Women	100,000
Housing	71,000
Mental Health/Mental Retardation/Substance Abuse	500,000
Police	120,000
Commonwealth Attorney's Office	100,000
City Council	30,000
Library	110,000
Historic Alexandria	100,000
Court Services Unit	110,000
18 <sup>th</sup> Circuit Court	60,000
Clerk of Courts	30,000
Management and Budget	40,000
TOTAL:	<u>\$4,064,000</u>

TRANSFER APPROPRIATIONS TO:

Human Services	\$1,500,000
City Attorney	1,500,000
General Services	570,000
Fire	250,000
Finance	116,000

Personnel	107,000
Law Library	14,000
General District	<u>7,000</u>
TOTAL:	<u>\$4,064,000</u>

## OTHER

### 40. Consideration of City Council Schedule.

(A copy of the City Manager's memorandum dated June 22, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 40; 6/26/07, and is incorporated as part of this record by reference.)

Councilman Smedberg noted that he would be out of town Saturday, November 3.

Councilman Gaines said he would be out of town July 7.

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council: 1. scheduled the Charles Houston groundbreaking ceremony at 8:30 a.m. before Council's Saturday, September 15 public hearing meeting; 2. tentatively scheduled Council's annual retreat on Saturday, November 3 (location to be determined); and 3. received the revised calendar which includes the City's annual USA/Alexandria Birthday Celebration on Saturday, July 7 from 4:00 p.m. to 10:30 p.m. at Oronoco Bay Park (rain date Sunday, July 8, fireworks only.) The voting was as follows:

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

## EXECUTIVE SESSION

### 41. Consideration of Convening An Executive Session Closed to the Public to Discuss threatened and pending litigation and the performance reviews of the City Manager, City Clerk and City Attorney, and compensation review of the Commonwealth Attorney.

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, at 11:00 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 discussing the performance during the past fiscal year of the City Manager, City Attorney and City Clerk, and the compensation of the Commonwealth's Attorney; and pursuant to Section 2.2-3711(a)(7) to discuss litigation involving the Mirant Power Plant and LCOR/PTO real estate taxes, and in lieu of an executive session, that Council approve the settlement of the workers' compensation claims of: Tommy Pasley

(T&ES), Keiko Crummedy (Police), Walter Craven Powell (Police), Kathleen Mary Bryand (Fire) and Kenneth Claggett (Fire) as outlined in the memoranda from the City Attorney. The voting was as follows:

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

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, at 11:55 p.m., City Council reconvened the meeting. The voting was as follows:

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

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, City Council approved the receipt of the performance reviews; authorized the Mayor to meet with the City Manager, City Attorney and City Clerk for the purpose of reviewing performance; and authorized the Mayor to designate an appropriate merit increase along the lines discussed in the executive session for the City Manager, City Attorney and City Clerk, and that City Council approve an increase in salary for the Commonwealth's Attorney. The voting was as follows:

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

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, City Council authorized the City Manager and City Attorney to settle the LCOR/PTO real estate tax case along the lines discussed with Council. The voting was as follows:

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

**WHEREUPON**, upon motion by Councilman Krupicka, 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:

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

The resolution reads as follows:

RESOLUTION NO. 2242

WHEREAS, the Alexandria City Council has this 26th day of June 2007, 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.

\* \* \* \* \*

**THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, the regular City Council meeting of June 26, 2007, was adjourned at 11:57 p.m. The voting was as follows:

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

APPROVED BY:

\_\_\_\_\_  
WILLIAM D. EUILLE    MAYOR

ATTEST:

\_\_\_\_\_  
Jacqueline M. Henderson, CMC, City Clerk