

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting
Saturday, April 18, 2009 - - 9:30 a.m.

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

Absent: None.

Also Present: Mr. Hartmann, City Manager; Mr. Spera, Acting City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Ms. Harris, Communications Officer, City Manager's Office; Mr. Mason, Special Assistant to the City Manager; Mr. Caton, Legislative Director; Mr. Gates, Assistant City Manager; Police Captain Ogden; Ms. Smith-Page, Director, Real Estate Assessments; Ms. Triggs, Director, Finance Office; Mr. Culpepper, Deputy Director, Transportation and Environmental Services; Mr. McPike, Transportation and Environmental Services; Ms. Davis, Director, Office of Housing; Ms. Hamer, Director, Planning and Zoning; Mr. Farner, Planning and Zoning; Ms. Wright, Planning and Zoning; Mr. Randall, Planning and Zoning; Ms. Ryan, Planning and Zoning; Ms. Escher, Planning and Zoning; Mr. Johnson, Chief Financial Officer; Mr. Catlett, Director, Office of Building and Fire Code Administration; Mr. Hunt, Office of Building and Fire Code Administration; and Mr. Lloyd.

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

OPENING

1. Calling the Roll.

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

2. Public Discussion Period.

(a) Kim Kaplan, 303 E. Glendale Avenue, spoke of the proposed cuts to the DASH and Metrobus service, noting the importance of transit to the City's economic health. She said the City will save only \$364,000 by making the cuts. Ms. Kaplan spoke of the comparison of the cuts with Arlington County, Fairfax County and Montgomery County.

(b) Gary Carr, 216 Aspen Street, spoke of the need for the restoration of the running tracks at G.W. Middle School and Hammond Middle School, noting that on the trade of Landbay L there are alternatives, and the folly of building an artificial turf field at the site reserved for the public school and Potomac Yard. Mr. Carr said the dedication of the Minnie Howard campus should include a track, and he spoke of the physical education of children.

(c) Raymond V. Petniunas, 1103 Finley Lane, spoke of a proposal for a cooperative measure between Dominion Power and the City to establish a smart grid program for the City.

Mayor Euille said he would bring this up at his weekly Mayor/City Manager meeting.

(d) Linda Lee, 1420 W. Abingdon Drive, spoke of the cuts to the transit system, noting that she is a transit rider and does not own a car. Ms. Lee said she went to Congressman Moran's office, as well as the two Senators and they were concerned. She suggested setting up a package deal with the hotels and DASH for a Smart Trip card to go with their hotel ticket, and DASH has a monthly pass, and it could possibly have a daily or weekend pass on sale at the Visitors Center, Lyceum or the hotels.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR (3-7)

Planning Commission

3. SPECIAL USE PERMIT #2009-0005
4915 and 4920 BRENMAN PARK DRIVE
BRIGHT START LEARNING CENTER
Public Hearing and Consideration of a request for an expansion of an existing child day care center to provide an additional classroom; zoned CDD#9/Coordinated Development District. Applicant: Bright Start Learning Center by Kerri Chas

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 4/18/09, and is incorporated as part of this record by reference.)

4. SPECIAL USE PERMIT #2009-0009
4906 BRENMAN PARK DRIVE (Parcel Address: 191 Somerville Street)
FOOD MATTERS RESTAURANT
Public Hearing and Consideration of a request for an expansion of an existing

restaurant, an increase of indoor and outdoor seating; zoned CDD#9/Coordinated Development District. Applicant: Food Matters, LLC by Victoria & Gerry Hebert and Christy & Tom Przyslawik

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 4/18/09, and is incorporated as part of this record by reference.)

5. SPECIAL USE PERMIT #2009-0001
2018 MT VERNON AVE
THAI PEPPERS RESTAURANT

Public Hearing and Consideration of a request to change the ownership of a restaurant and for a special use permit amendment to allow increased seating, delivery service, alcohol service, and a request for a parking reduction; zoned CL/Commercial Low. Applicant: Tasneeya Gordon

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 4/18/09, and is incorporated as part of this record by reference.)

6. SPECIAL USE PERMIT #2008-0084
ENCROACHMENT #2008-0005
532 NORTH WASHINGTON STREET
OFFICE BUILDING ADDITION

Public Hearing and Consideration of a request for a development site plan for an addition to an office building, a parking reduction and a request to for an encroachment into the public right of way; zoned OC/Office Commercial. Applicant: North Parkway, LLC by Duncan Blair, attorney

PLANNING COMMISSION ACTION: SUP Recommend Approval 7-0
ENC Recommend Approval 7-0

(A copy of Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 4/18/09, and is incorporated as part of this record by reference.)

7. SPECIAL USE PERMIT #2008-0095
411 EAST BRADDOCK ROAD (Parcel Address: 405 E. Braddock Road)
7-ELEVEN, INCORPORATED
Consideration of a request for the continuance of a convenience store use; zoned CSL/Commercial Service Low. Applicant: 7-Eleven, Inc by Michael Vanderpool, Esquire

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 4/18/09, and is incorporated as part of this record by reference.)

9. DEVELOPMENT SPECIAL USE PERMIT #2006-0006

3650 WHEELER AVENUE

LINDSAY LEXUS

Public Hearing and Consideration of a request for a development special use permit, with site plan, to construct a parking facility for up to 520 vehicles and a light repair service facility; zoned I/Industrial. Applicant: Lindsay Cadillac Company, Inc. by J. Howard Middleton, attorney

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 4/18/09, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

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(Vice Mayor Pepper arrived at this time - 9:58 a.m.)

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WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, City Council adopted the consent calendar, with the removal of item #7 and the addition of item #9 to the consent calendar:

3. City Council approved the Planning Commission recommendation.
4. City Council approved the Planning Commission recommendation.
5. City Council approved the Planning Commission recommendation.
6. This item was deferred at the request of the applicant.
9. City Council approved the Planning Commission recommendation.

Councilman Gaines said in regard to item #3 on the consent calendar, Bright Start Learning Center, he noted for the record that his son attends Bright Start Learning Center and will be attending the kindergarten that this expansion covers.

The voting was as follows:

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

7. SPECIAL USE PERMIT #2008-0095
411 EAST BRADDOCK ROAD (Parcel Address: 405 E. Braddock Road)
7-ELEVEN, INCORPORATED
Consideration of a request for the continuance of a convenience store use; zoned CSL/Commercial Service Low. Applicant: 7-Eleven, Inc by Michael Vanderpool, Esquire

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 4/18/09, and is incorporated as part of this record by reference.)

Planning Division Chief Wright responded to questions of City Council regarding the property. Police Captain Ogden also responded to questions of Council concerning the calls for service at the property.

WHEREUPON, a motion was made by Councilman Wilson, seconded by Councilman Gaines, to close the public hearing and adopt the Planning Commission recommendation, with an amendment to condition #18, to have it read March 14, 2011 or two years from City Council approval, whichever is later.

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried 6-1, City Council moved a substitute motion to approve the Planning Commission recommendation, with an amendment that staff re-docket this item in two years to have an update and discussion on what is happening on consolidation of the properties and take whatever other action is appropriate at that time. The voting was as follows:

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

The voting on the main motion carried unanimously and was as follows:

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

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

8. Public Hearing on an Ordinance on the Increase in Real Estate Tax Revenue, at a Rate Not to Exceed \$0.90.5 per \$100 of Assessed Value, Attributable to the Increase in Value of Assessed Property as of January 1, 2009, and Known as the "Effective Rate Increase" Pursuant to Section 58.1-3321 of the Virginia Code. Adoption of the Tax Rate is Scheduled for April 27, 2009.

(A copy of the City Manager's memorandum dated April 13, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 8; 4/18/09, 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. 8; 4/18/09, 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. 8; 4/18/09, and is incorporated as part of this record by reference.)

In response to questions from City Council, Chief Financial Officer Johnson responded to questions about the open space trust fund account.

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

(a) Marsha Rhea, 1214 West Avington Drive, spoke in favor of the tax rate and said it is based on her experience as a leader within VOICE, Virginians Organized Interfaith Community Engagement, noting that her church, the Old Presbyterian Meeting House, is one of seven Alexandria congregations involved in VOICE. Ms. Rhea said she could support and advocate for up to a rate of \$.90.5 rate if it means Council can restore the one cent for affordable housing.

(b) Dee Dee Tostanoski, 417 Underhill Place, a member of VOICE, spoke in favor of the six cent increase in the tax rate, noting that it will enable the City to maintain the current level of funding for affordable housing and increase the contribution toward the dental clinic and to continue assisting ARHA in funding maintenance for the Bland community and other public housing.

(c) Barbara Crowder, 911 N. Alfred Street, said she is a Bland resident, noting that she is in training for a home day care, and she spoke to high electric bills and noted the small help she gets from ARHA.

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

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

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

9. DEVELOPMENT SPECIAL USE PERMIT #2006-0006

3650 WHEELER AVENUE

LINDSAY LEXUS

Public Hearing and Consideration of a request for a development special use permit, with site plan, to construct a parking facility for up to 520 vehicles and a light repair service facility; zoned I/Industrial. Applicant: Lindsay Cadillac Company, Inc. by J. Howard Middleton, attorney

PLANNING COMMISSION ACTION: Recommend Approval 7-0

This item was approved on the consent calendar.

10. DEVELOPMENT SPECIAL USE PERMIT #2004-0028

6101 AND 6125 STEVENSON AVENUE

STEVENSON AVENUE RESIDENTIAL

Public Hearing and Consideration of a request for a development special use permit, with site plan to construct a residential building with an affordable housing bonus density pursuant to Sec. 7-700 of the Zoning Ordinance and additional height; zoned OCM(50)/Office Commercial Medium. Applicant: Steven A. Hansen, LLC and WWIV Stevenson Avenue, LLC by M. Catharine Puskar

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 4/18/09, and is incorporated as part of this record by reference.)

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

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

Cathy Puskar, attorney representing the applicant, 2200 Clarendon Blvd., Arlington, along with Deputy Director of Transportation and Environmental Services Culpepper, and Ms. Ryan, Planning and Zoning, responded to questions of City Council.

After discussion, Council gave instruction to staff that after one year of occupancy of the building, the reevaluation of the traffic signalization be brought back through the Traffic and Parking Board for Council evaluation or reconsideration.

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

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

11. GREEN BUILDING POLICY

Public Hearing and Consideration of a request to adopt the Green Building Policy
 . Staff: Department of Planning and Zoning

PLANNING COMMISSION ACTION: Adopted 7-0

(A copy of Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 4/18/09, and is incorporated as part of this record by reference.)

Planning Director Hamer made a presentation of the staff report and she, along with Director of Environmental Quality Skrabak, Planning Division Chief Farner and Building and Fire Code Administration Director Catlett responded to questions of City Council.

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

(a) Lou Sagatov, 6021 N. 20th Street, Arlington, speaking on behalf of the Northern Virginia Building Association, said he has been a member of the task force and he spoke about the key components of the residential section and looking at existing building stock and that everything be certified. Mr. Sagatov also spoke to the grandfathering of projects and the funding of the workgroup.

(b) Kara Whisler, representing the Alexandria Chamber of Commerce, read her letter sent to Council earlier in the week and spoke in general support of the green building initiatives, noting that they do not want to unreasonably burden developers and property owners.

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

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

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

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

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

12. Public Hearing on the Draft One-Year Action Plan for Housing and Community Development for City Fiscal Year 2010.

(A copy of the City Manager's memorandum dated April 13, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 12; 4/18/09, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council: 1. closed the public hearing on the FY 2010 draft one-year action plan for Housing and Community Development, which includes the City's application for new Federal Fiscal Year 2009 funding of \$1,233,314 in Community Development Block Grant (CDBG) monies and \$830,576 in Home Investment Partnerships Program (HOME) monies; and 2. docketed the draft one-year action plan for Housing and Community Development for final Council approval on May 12, 2009. The voting was as follows:

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

13. Public Hearing and Consideration of the Revised Citizen Participation Plan for Housing and Community Development Activities.

(A copy of the City Manager's memorandum dated April 13, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 13; 4/18/09, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council closed the public hearing and: 1. held the public hearing on the revised citizen participation plan for Housing and Community Development Activities; and 2. docketed the revised citizen partnership plan for City Council approval on May 12, 2009. The voting was as follows:

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

13.1 Consideration of the Process for City Council Review of Proposed Grants Submitted Under the Provisions of the American Recovery and Reinvestment Act.

(A copy of the City Manager's memorandum dated April 17, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 13.1; 4/18/09, and is incorporated as part of this record by reference.)

Legislative Director Caton made a presentation of the report and responded to questions of City Council.

WHEREUPON, upon motion by Councilmember Lovain, seconded by Vice Mayor Pepper and carried 6-0, City Council endorsed the process for Council approval of grant applications related to the American Reinvestment and Recovery Act as recommended by City Council's ARRA Subcommittee (Mayor Euille and Councilmember Lovain.) Endorsement would exempt all ARRA related grant applications from receiving Council approval prior to submission unless terms and conditions of the grant require Council action. City Manager approval would continue to be required for each application submission. All applications submitted to the City Manager for approval would concurrently be noticed to City Council and subsequently posted to the City's ARRA website. The voting was as follows:

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

13.2 Consideration of Request to Permit the Tallship Peacemaker to Dock at the City

Marina for 12 Days and Waive Associated Docking Fees.

(A copy of the City Manager's memorandum dated April 17, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 13.2; 4/18/09, and is incorporated as part of this record by reference.)

Deputy City Manager Jinks made a presentation of the report and responded to questions of City Council regarding the docking of the Tallship Peacemaker.

WHEREUPON, upon motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried 5-0, City Council approved the request to dock the tallship *Peacemaker* at the City of Alexandria Marina for 12 days and waive the associated docking fee. The voting was as follows:

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

ORDINANCES AND RESOLUTIONS

14. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the Zoning Ordinance to Extend Validity Periods of Approved Site Plans and Development Special Use Permits. (#10, 4/14/09) **[ROLL-CALL VOTE]**

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 4/18/09, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 14; 4/18/09, and is incorporated as part of this record by reference.)

There was discussion among City Council and Acting City Attorney Spera and Planning Division Chief Wright regarding the report being provided to City Council and the timeline of the report, as well as who will provide the report.

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

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

WHEREUPON, upon motion by Councilman Wilson, seconded by Councilman Smedberg and carried unanimously, City Council deferred adoption of the ordinance until April 28, 2009 and asked staff to come back with final language reflecting the discussion. The voting was as follows:

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

15. Public Hearing, Second Reading and Final Passage of an Ordinance Making Supplemental Appropriations For FY 2009. (#11, 4/14/09) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated April 7, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 4/18/09, 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. 15; 4/18/09, 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. 15; 4/18/09, and is incorporated as part of this record by reference.)

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

(a) Edward Fierstos, 5086 Donovan Drive, spoke of the value of early intervention with young people, and he spoke of the reduction of funds to Mental Health/Mental Retardation and Substance Abuse and Human Resources and asked Council to retain the funding for the human resources for that department.

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously by roll-call vote, City Council adopted the ordinance making supplemental appropriations for FY 2009. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4585

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

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the funds hereafter named the amounts hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2009, the source of such amount being external grant awards for which revenues were authorized and adjusted after July 1, 2008, but not appropriated, and further that the Council does hereby allot the amount so appropriated to the several city departments for fiscal year 2009, as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Office on Women	\$47,800
Commonwealth Attorney	3,121
Court Services	18,100
Transportation and Environmental Services	100,000
Fire	106,000
Housing	1,772,977
Mental Health/Mental Retardation/Substance Abuse	878,888
Health	15,000
Human Services	281,553
Non-Departmental	152,000
Total Estimated Revenue	\$3,375,439

APPROPRIATION:

Office on Women	\$47,800
Commonwealth Attorney	3,121
Court Services	18,100
Transportation and Environmental Services	100,000
Fire	106,000
Housing	1,772,977
Mental Health/Mental Retardation/Substance Abuse	878,888
Health	15,000
Human Services	281,553
Non-Departmental	152,000
Total Appropriation	\$3,375,439

Section 2. That the Council of the City of Alexandria, Virginia, does hereby

make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2009, the source of such amount being Capital Project Fund revenue, and further that the Council does hereby allot the amount so appropriated for fiscal year 2009, as follows:

CAPITAL PROJECTS

ESTIMATED REVENUE:

Capital Projects	\$151,008
Total Estimated Revenue	\$151,008

APPROPRIATION:

Capital Projects	\$151,008
Total Appropriation	\$151,008

Section 3. That the Council of the City of Alexandria, Virginia, does hereby and make provision for and transfer appropriations in the General Fund in the amounts hereafter stated that is required to defray certain expenditures and liabilities of the city.

GENERAL FUND

APPROPRIATION:

Finance	\$(20,000)
Transit Subsidies	20,000
Total Appropriation	\$ 0

Section 4. That the Council of the City of Alexandria, Virginia, does hereby make provision for and reduce the appropriate to the fund hereafter stated the amount hereafter stated that are required to defray certain expenditures and liabilities of the city in fiscal year 2009, the source of such amount being a reduction in General Fund revenue, and the same hereby is, further appropriated to the following City departments and component units in the amounts set forth below:

GENERAL FUND

ESTIMATED REVENUE:

General Property Taxes	\$ 0
Other Local Taxes	(5,587,748)
Permits, Fees & Licenses	0
Fines & Forfeitures	0
Intergovernmental	106,000

Charges for Services	(2,879,000)
Revenue from Use of Money and Property	(1,324,311)
Miscellaneous Revenue	<u>355,000</u>
Total Estimated Revenue	<u>\$ (9,330,059)</u>

APPROPRIATION:

City Council	\$ (3,377)
City Manager	(75,700)
Office of Women	(61,741)
Citizens Assistance	(17,000)
Office of Management and Budget	(48,533)
18 th Circuit Court	(6,952)
Sheriff	(194,000)
Clerk of Courts	(16,929)
Other Court Services	(24,043)
Human Rights	(5,797)
Internal Audit	(1,161)
Information Technology Services	(101,231)
Office of Communications	(57,014)
City Clerk and Clerk of Council	(1,005)
Finance	(268,407)
Personnel	(134,230)
Planning & Zoning	(118,020)
City Attorney	(54,209)
General Services	(339,242)
Transportation and Environmental Services	(977,106)
Transit Subsidies	(423,495)
Fire	(101,454)
Police	(586,402)
Office of Housing	(157,160)
Mental Health/Mental Retardation/Substance Abuse	(445,408)
Health	(48,070)
Human Services	(548,535)
Historic Alexandria	(64,523)
Recreation	(820,100)
Library	(295,593)
General Debt Service	(1,483,622)
Non-Departmental	<u>(1,850,000)</u>
Total Appropriation	<u>\$ (9,330,059)</u>

Section 5. That the Council of the City of Alexandria, Virginia, does hereby make provision for and reduce the appropriate to the fund hereafter stated the amount hereafter stated that are required to defray certain expenditures and liabilities of the city in fiscal year 2009, the source of such amount being a reduction in General Fund revenue in support of the Special Revenue Fund, and the same hereby is, further

revenue in support of the Special Revenue Fund, and the same hereby is, further appropriated to the following City departments and component units in the amounts set forth below:

SPECIAL REVENUE FUND/COMPONENT UNIT

ESTIMATED REVENUE:

Transfers In	\$(1,350,347)
Total Estimated Revenue	\$(1,350,347)

APPROPRIATION:

Housing	\$(157,160)
Library	(295,593)
MHM RSA	(445,408)
DHS	(232,186)
DASH	(220,000)
Total Appropriation	(1,350,347)

Section 6. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter stated the amount hereafter stated that are required to defray certain expenditures and liabilities of the city in fiscal year 2009, the source of such amount being General Fund revenue in support of the Special Revenue Fund, and the same hereby is, further appropriated to the following City departments and component units in the amounts set forth below:

SPECIAL REVENUE FUND/COMPONENT UNIT

ESTIMATED REVENUE:

Transfers In	\$(108,042)
Total Estimated Revenues	(108,042)

APPROPRIATION:

DASH	\$108,042
Total Appropriation	\$108,042

Section 7. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter stated the amount hereafter stated that are required to defray certain expenditures and liabilities of the city in fiscal year 2009, the source of such amount being Recovered Damages revenue, and further, that the Council does hereby allot the amount so appropriated to the Departments of Planning and Zoning and Transportation and Environmental Services fiscal year 2009, as follows:

GENERAL FUND

ESTIMATED REVENUE:

Recovered Damages	\$196,000
Total Estimated Revenue	\$196,000

APPROPRIATION:

Planning and Zoning	\$125,000
Transportation and Environmental Services	\$71,000
Total Appropriation	\$196,000

Section 8. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that are required to defray certain expenditures and liabilities of the city for fiscal year 2009, the source of such amount being Charges for Services revenue and further, that the Council does hereby allot the amount so appropriated for fiscal year 2009 as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Charges for Services	\$225,000
Total Estimated Revenues	\$225,000

APPROPRIATION:

Planning and Zoning	\$225,000
Total Appropriation	\$225,000

Section 9. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that are required to defray certain expenditures and liabilities of the city for fiscal year 2009, the source of such amount being Charges for Services revenue and further, that the Council does hereby allot the amount so appropriated for fiscal year 2009 as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Charges for Services	\$180,000
Total Estimated Revenues	\$180,000

APPROPRIATION:

Office of the Sheriff	\$180,000
Total Appropriation	\$180,000

Section 10. That this ordinance shall become effective upon the date and time at the time of its final passage.

16. Public Hearing, Second Reading and Final Passage of an Ordinance to Initiate and Establish the Process for Granting a Franchise by the City of Alexandria, Virginia, to Use the Public Rights-of-way to Provide Telecommunications Services, Excluding Cable Services, in the City. (#13, 4/14/09) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated April 9, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 16; 4/18/09, 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. 16; 4/18/09, 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. 16; 4/18/09, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Wilson, seconded by Councilman Gaines and carried unanimously by roll-call vote, City Council adopted the ordinance to initiate and establish the process for granting a franchise by the City of Alexandria, Virginia, to use the public rights-of-way to provide telecommunications services, excluding cable services, in the City. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4586

AN ORDINANCE to initiate and establish the process for granting a franchise by the City of Alexandria, Virginia, to use the public rights-of-way to provide Telecommunications Services, excluding Cable Services in the City.

AN ORDINANCE to initiate and establish the process for granting a franchise by the City of Alexandria, Virginia, to use the public rights-of-way to provide Telecommunications Services, excluding Cable Services in the City.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the City of Alexandria proposes to grant a franchise, in the manner prescribed by law, for Telecommunications Services, excluding Cable Services, permitting the design, construction, maintenance, upgrade, repair, removal and operation of a system, including a fiber-to-the-premises network, in the public rights-of-way, as set forth in the following proposed franchise ordinance:

ORDINANCE NO. _____

AN ORDINANCE to grant to _____, its successors and assigns, a franchise, under certain conditions, permitting the grantee to use the public rights-of-way in the City of Alexandria, for the design, construction, maintenance, upgrade, repair, removal and operation of a system to provide Telecommunications Services, excluding Cable Services, in the City.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That this Franchise is hereby granted to _____ hereinafter referred to as "Grantee," its successors and assigns, to permit the Grantee to design, construct, maintain, upgrade, repair, remove and operate a system to provide Telecommunications Services, excluding Cable Services, using the public rights-of-way in the City.

Section 2. That the said Franchise is awarded to the Grantee after public notice and invitation for bids, as required by law, pursuant to Section 2 of Ordinance No. _____, and after the invitation for bids was duly closed and all bids were fully and carefully investigated and evaluated.

Section 3. That the Grantee be, and hereby is, granted a Franchise for _____ years to design, construct, maintain, upgrade, repair, remove and operate a system to provide Telecommunications Services, excluding Cable Services, using the public rights-of-way in the

City. The Grantee shall strictly comply with the terms of this Ordinance and with the Franchise Agreement attached hereto and incorporated fully herein by reference, together with all applicable laws and regulations of the City of Alexandria, the Commonwealth of Virginia and the United States, and any regulatory agency having jurisdiction, including, without limitation, with the following conditions:

1. Each year an updated map of all facilities within the City, existing and proposed, showing locations, scheduled construction and service dates, and such additional information as the City Manager may specify in his reasonable discretion, shall be filed with the City's Department of Transportation and Environmental Services.

2. All necessary permits shall be obtained for each and every excavation or installation, including but not limited to boring in and/or under public rights-of-way or other public place.

3. In the event the relocation, construction, reconstruction, maintenance or repair by the City, the Commonwealth of Virginia or the Washington Metropolitan Area Transit Authority of any facilities or services is necessary or desirable, and it is necessary to alter or relocate, either permanently or temporarily, any of the Grantee's property in the public rights-of way or other public property in order to accomplish same, the Grantee will, after reasonable notice, move, alter or relocate its property at its own cost and expense, and should the Grantee fail to comply with such notice, its property may be removed, altered or relocated by the City, Commonwealth or Washington Metropolitan Area Transit Authority at the cost of the Grantee and without liability for any resulting damage. The Grantee will do everything reasonably necessary, in a timely manner, to prevent any delays in construction projects of the City, the Commonwealth or the Washington Metropolitan Area Transit Authority.

4. This Franchise may be assigned or transferred; provided, however, that no such assignment or transfer shall be effective without the prior written consent of the City, which consent will not be

unreasonably withheld.

5. The Grantee will obtain liability insurance to the satisfaction of the City Attorney, which insurance shall name the City as an additional insured.

6. The Grantee will not use the privileges granted by this Franchise to provide the functional equivalent of a cable system or Cable Services as defined in sections 9-3-17 and 9-3-18 of the Code of the City of Alexandria (1950), as amended.

7. The Grantee shall protect all property of the City or any other person during any work of designing, constructing, maintaining, repairing, upgrading, removing or operating its system in or adjacent to the public rights-of-way or other public place, and shall fully restore, in kind, any property damaged or destroyed during any such work. In the event the Grantee and any property owner are unable to agree on a remedy, the Grantee agrees to abide by the determination of the City as to compensation or restoration.

8. That nothing in this Franchise shall increase or strengthen the rights that other franchisees may have. The City shall have no liability to the Grantee for exercising any rights the City may have in general or under its franchises with other franchisees, regardless of the effect of such exercise on the Grantee.

9. The Grantee shall remove its property at its own expense at the expiration or termination of this Franchise or any extension hereof

Section 4. That the City Manager be and hereby is authorized to execute such documents as may be required to effectuate the Franchise hereby granted.

Section 5. That the City Clerk be and hereby is authorized to attest the execution of said documents and to affix thereon the official seal of the City of Alexandria, Virginia.

Section 2. That as soon as this ordinance has been finally passed, the City Clerk shall cause to be advertised once a week for four successive weeks in a newspaper published in the City of Alexandria, a descriptive notice

of the proposed ordinance contained in Section 1 of this ordinance, and, in addition thereto, shall by such advertisement invite bids for the Franchise proposed to be granted by such proposed ordinance, by publishing with the descriptive notice of such ordinance a notice which shall be in substantially the following form:

NOTICE

BIDS ARE INVITED BY THE CITY OF ALEXANDRIA, VIRGINIA, FOR THE GRANT OF A FRANCHISE PERMITTING THE FRANCHISEE TO USE THE PUBLIC RIGHTS-OF-WAY IN THE CITY FOR THE DESIGN, CONSTRUCTION, MAINTENANCE, REPAIR, UPGRADE, REMOVAL AND OPERATION OF A SYSTEM TO PROVIDE TELECOMMUNICATIONS SERVICES, EXCLUDING CABLE SERVICES, FOR THE BENEFIT OF RESIDENTS, BUSINESSES AND GOVERNMENT IN THE CITY. DETAILED CONDITIONS AND SPECIFICATIONS FOR THE FRANCHISE ARE ON FILE IN THE OFFICE OF THE DIRECTOR OF CITIZEN ASSISTANCE, 301 KING STREET, ALEXANDRIA VIRGINIA 22314.

THE TERM OF THE FRANCHISE IS NEGOTIABLE, BUT IT SHALL BE FOR A MINIMUM OF FIVE YEARS.

ALL BIDS ARE TO BE SUBMITTED IN WRITING AND DELIVERED TO ROSE WILLIAMS BOYD, DIRECTOR, OFFICE OF CITIZEN ASSISTANCE, 301 KING STREET, ALEXANDRIA VIRGINIA 22314, ON OR BEFORE MAY 18, 2009 AT 3:00 PM. EASTERN TIME. AT THAT TIME BIDS SHALL BE PUBLICLY OPENED AND BIDDERS IDENTIFIED.

IN ADDITION, IDENTIFICATION OF THE BIDDERS SHALL BE ANNOUNCED IN OPEN SESSION OF THE CITY COUNCIL OF THE CITY OF ALEXANDRIA IN THE COUNCIL'S CHAMBERS, CITY HALL, 301 KING STREET, SECOND FLOOR, ALEXANDRIA, VIRGINIA 22314, ON MAY 26, 2009, AT 7:00 P.M. AT THAT TIME, THE MAYOR SHALL REFER THE BIDS RECEIVED TO THE CITY MANAGER TO EVALUATE, REVIEW AND CONSIDER IN THE MANNER PRESCRIBED BY LAW, INCLUDING THE SELECTION OF, AND NEGOTIATION OF A FRANCHISE AGREEMENT WITH, A PREFERRED BIDDER. AS SOON THEREAFTER AS PRACTICABLE, THE CITY MANAGER WILL RECOMMEND THE SUCCESSFUL BIDDER, AND PRESENT THE NEGOTIATED FRANCHISE AGREEMENT, FOR CONSIDERATION AND APPROVAL BY CITY COUNCIL.

THE CITY RESERVES THE RIGHT IN THE CITY MANAGER'S SOLE DISCRETION TO REJECT ANY AND ALL BIDS; TO TERMINATE NEGOTIATIONS AT ANY STAGE OF THE SELECTION PROCESS, AND TO REISSUE THE REQUEST FOR BIDS WITH OR WITHOUT MODIFICATION.

THE DESCRIPTIVE NOTICE OF THE PROPOSED FRANCHISE ORDINANCE

removal and operation of a Telecommunications System, excluding Cable Services, for the benefit of residents, businesses and government in the City. (Complete text of ordinance available in office of the city clerk.)

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

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR

Planning Commission (continued)

None.

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

* * * * *

THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Vice Mayor Pepper, seconded by Councilman Krupicka and carried unanimously, the City Council public hearing meeting of April 18, 2009, was adjourned at 12:20 p.m. The voting was as follows:

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

APPROVED BY:

WILLIAM D. EUILLE MAYOR

ATTEST:

Jacqueline M. Henderson, CMC, City Clerk