

**CITY COUNCIL OF ALEXANDRIA, VIRGINIA**

**Public Hearing Meeting**  
**Saturday, May 16, 2009 - - 9:30 a.m.**

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

Absent: Councilman Timothy B. Lovain.

Also Present: Mr. Hartmann, City Manager; Mr. Banks, City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Ms. Hamer, Director, Planning and Zoning (P&Z); Mr. Farner, Deputy Director, P&Z; Ms. McIlvaine, Deputy Director, Office of Housing; Mr. Randall, Urban Planner, P&Z; Mr. Gates, Assistant City Manager, City Manager's Office; Mr. Castrilli, Communications Director, City Manager's Office; Mr. Caton, Legislative Director, City Manager's Office; Ms. Baker, Acting Director, Transportation and Environmental Services; Fire Chief Thiel; Mr. Catlett, Director, Building and Fire Code Administration; Ms. Parker, Urban Planner, P&Z; Ms. Wright, Division Chief, P&Z; Ms. Beeton, Division Chief, P&Z; Ms. Davis, Urban Planner, P&Z; Mr. Milone, Division Chief, P&Z; Ms. Miliaras, Urban Planner, P&Z; Ms. Harris, Communications Officer, City Manager's Office; Ms. Blackford, Communications Officer, City Manager's Office; Ms. Triggs, Director, Finance; Mr. Outlaw, ITS; Police Captain Ogden; and Mr. Lloyd.

Recorded by: Gloria Sitton, Deputy City Clerk and Clerk of Council.

**OPENING**

1. Calling the Roll.

Mayor Euille called the meeting to order and the Deputy City Clerk called the roll. All members of Council were present, with the exception of Councilmember Tim Lovain, who was absent.

2. Public Discussion Period.

(a) Trey Hanbury, 1504 Cameron Street, representing the Upper King Street Neighborhood Association and the Farmers Market, presented the City with a check for the Alexandria Living Landscape Fund. Mr. Hanbury thanked everyone who helped make the market successful and invited everyone to stop by the market when it begins

on June 3.

(b) Gary Carr, 216 Aspen Street, spoke about improving the conditions of the running tracks at Francis Hammond and George Washington Middle Schools. Mr. Carr noted that there is a disparity between resources being provided for public school students versus private school students and that the running tracks are a community resource as well as a school resource. Mr. Carr noted that childhood obesity is a local and national epidemic and the issue should be addressed in the Mayor's Initiative for Health and Fitness.

(c) Phil Cefaratti, 3812 North Griffith Place, stated that the City elections should remain in May, in order to focus on local issues. Mr. Cefaratti stated that voters still make a choice for or against candidates on election day, regardless of voter turnout. Mr. Cefaratti pointed out that a reduction in the cost per vote cast is not a true reflection of quality of the election and not a reason to move the election to November.

(d) Annabelle Fisher, 5001 Seminary Road, thanked Council for presenting the Landlord-Tenant Relations Board with a proclamation recognizing the rental community in the City. Ms. Fisher also stated that the City elections should remain in May and that Council needed competent, reasonable and knowledgeable people running for Council.

(e) David Fromm, 2307 East Randolph Avenue, spoke about two upcoming Planning and Zoning issues. Mr. Fromm reported that the west side of Route 1 is mostly light industrial and he requested that the City conduct an inventory and needs assessment of its light industrial uses and services in order to properly plan for it in a comprehensive manner. Mr. Fromm also addressed the proposed land swap at Landbay L and distributed graphics showing possible solutions to the issues that needed to be addressed. Mr. Fromm requested that Council add a study of the combined area of Landbay L, the George Washington Middle School and Braddock Fields be added to the Planning and Zoning work plan.

## **REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES**

### **ACTION CONSENT CALENDAR (3-4)**

#### **Planning Commission**

3. SPECIAL USE PERMIT #2009-0013  
1623 FERN STREET  
RESTAURANT  
Public Hearing and Consideration of a request to operate a restaurant and for a parking reduction; zoned CSL/Commercial Service Low. Applicant: Culinary Concepts Corporation by Lawrence Ponzi

**PLANNING COMMISSION ACTION: Recommend Approval 7-0**

(A copy of the Planning Commission report dated May 7, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 05/16/09, and is incorporated as part of this record by reference.)

- 4. 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 the Planning Commission report 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. 4; 05/16/09, and is incorporated as part of this record by reference.)

**END OF ACTION CONSENT CALENDAR**

**WHEREUPON**, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the action consent calendar, with the exception of docket item #4, which was considered under a separate motion. The approval was as follows:

- 3. City Council approved the Planning Commission recommendation.

The voting was as follows:

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

- 4. 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 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 the Planning Commission report 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. 4; 05/16/09, and is incorporated as part of this record by reference.)

Ms. Parker, Urban Planner, Planning and Zoning, gave a brief presentation explaining the request and responded to questions from Council about building alterations to the existing building. Ms. Wright, Division Chief, Planning and Zoning, explained why the tree policy was not addressed in this particular proposal and noted that there would be a full review of the policy before Council on May 26 at the Legislative Meeting.

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

(a) Poul Hertel, 1217 Michigan Court, representing the Old Town Civic Association, stated that the existing building in the project would be altered in order to conform to the new building. Mr. Hertel requested that it be clarified that this alteration is an exception to the Washington Street Standards and will not set a precedent for other places in the Historic District.

(b) Duncan Blair, 524 King Street, attorney for the applicant, spoke in support of the proposed project and explained the alteration to the existing building.

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

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

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Mayor Euille stated that Councilmember Lovain was absent today because he was on a business trip and he welcomed City Attorney Banks.

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## REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

5. Public Hearing and Consideration of the Planning Commission Action to Establish a Braddock Open Space Fund Account and a Braddock Community Amenities Fund Account and a Formula as Described in the Staff Report For Developer Contributions as Part of the Braddock Metro Neighborhood Plan Implementation Strategy. (#21, 5/12/09)

(A copy of the Planning Commission report dated May 6, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 05/16/09, and is incorporated as part of this record by reference.)

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

(a) Heidi Ford, 1022 Oronoco Street, representing the Inner City Civic Association Executive Board, stated that the funding formula is not inclusive of all the amenities that are specified in the Braddock Plan, citing the inclusion of public art. Ms. Ford also noted that the community was "sold" the idea that there would be a public park on the current post office site, which the Planning and Zoning staff has since changed. Ms. Ford requested that the funding formula approved by Council include the cost estimates for all the amenities specified in the Braddock Plan and the plan that was presented to the community be honored.

Mr. Farner, Deputy Director, Planning and Zoning, responded to questions from Council about the funding designated in the plan for amenities and the use of the current post office site as a public park.

(b) Leslie Zupan, 1309 Queen Street, representing the Inner City Civic Association, stated that the funding idea was presented to the neighborhood during the charette process to capture value for the area and the appearance given to the community is that the developers are being relieved of their responsibilities because of the economic times. Ms. Zupan also expressed concern about including improvements to the surrounding streets with those in the Capital Improvement Process. Ms. Zupan stated that there is a credibility problem in the community with the implementation of the entire plan, particularly the location of the public park and noted some other discrepancies with the plan concerning the park.

In response to Council, Planning Director Hamer stated that Planning and Zoning staff has met with the property owner of the postal site and with Post Office officials and they are waiting on requirements from the Post Office about distribution needs. Ms. Hamer noted that the retaining the retail element of the Post Office would be positive for the community.

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, City Council closed the public hearing and deferred the consideration of the docket item until the June 9 legislative meeting to respond to the concerns from Council. The voting was as follows:

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

6. Deferral from June 24, 2008, Consideration of the Questions To Be Submitted

For an Advisory Referendum to the Voters of the City Regarding the Process to Elect the City Council and School Board and Whether the Questions Should Be Included on the Ballot at a May General Election or at a November General Election. The public hearing on this item has been closed. (#31, 6/24/08, #29, 5/13/08, #3, 6/14/08)

(A copy of the City Attorney's memorandum dated May 12, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 05/16/09, and is incorporated as part of this record by reference.

A copy of the City Manager's memorandum dated February 12, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 05/16/09, and is incorporated as part of this record by reference.)

City Council had a discussion about the proposed ordinance and about any changes that might be made to the City election process.

**WHEREUPON**, upon motion by Councilman Wilson, seconded by Councilman Krupicka and carried 4-2, City Council passed the ordinance on first reading and scheduled it for public hearing, second reading and final passage on Saturday, June 13, 2009. The voting was as follows:

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

6.1 Consideration of a City Bridge Loan to Enable the Redevelopment of Glebe Park to Proceed. (Deferred from May 12, 2009.) (#22, 5/12/09)

(A copy of the City Manager's memorandum dated May 6, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6.1; 05/16/09, and is incorporated as part of this record by reference.)

Council asked questions of Office of Housing staff and Alexandria Redevelopment and Housing Authority (ARHA) representatives regarding the loan and about inclusion and notification of the status of redevelopment in the Arlandria community.

**WHEREUPON**, upon motion by Councilman Gaines, seconded by Councilman Krupicka and carried unanimously, City Council approved a bridge loan to the Alexandria Redevelopment and Housing Authority (ARHA), in the amount of \$1,440,000 from currently available affordable housing funds, to be repaid as described in the docket memorandum. The voting was follows:

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

**REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)**

**Planning Commission (continued)**

7. SPECIAL USE PERMIT #2009-0011  
 106-108 NORTH WASHINGTON STREET  
 THE BURGER JOINT  
 Public Hearing and Consideration of a request to operate a restaurant; zoned CG/Commercial General. Applicant: The Burger Joint by M. Catharine Puskar, attorney

PLANNING COMMISSION ACTION: Recommend Approval w/amendments 7-0

(A copy of the Planning Commission report dated May 7, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 05/16/09, and is incorporated as part of this record by reference.)

Councilman Smedberg inquired why there was not a tree fee included in the application request. Barbara Ross, Planning and Zoning consultant, responded that the Recreation, Parks and Cultural Activities Department informed them the trees in this particular block were viable and there was no need for money to replace the trees. Ms. Ross also noted that the consistent policy has been only to collect the fee when there are dead or dying trees present.

Councilman Smedberg requested that the motion include the \$250 fee for tree replacement.

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

- (a) Elizabeth McKeeby, 2200 Clarendon Blvd., Arlington, Virginia, attorney for the applicant, stated that the applicant will accept the additional condition with hesitation. Ms. McKeeby requested that the letter submitted to the Planning Commission on May 4, 2009, requesting that the modification to condition #11 concerning the proposed parking program be included in the approval.

**WHEREUPON**, upon motion by Councilman Wilson, seconded by Councilman Gaines and carried unanimously, City Council closed the public hearing and approved the Planning Commission recommendation with the addition of a condition stating that the applicant will contribute \$250 for the planting of trees in the area. The voting was as follows:

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

8. SPECIAL USE PERMIT #2009-0023  
 50 SOUTH PICKETT STREET  
 CAFE AURORA  
 Public Hearing and Consideration of a request for an amendment to allow alcohol service at an existing restaurant; zoned CG/Commercial General.  
 Applicant: Dahab Beyne

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated May 7, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 05/16/09, and is incorporated as part of this record by reference.)

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

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

9. SMALL BUSINESS ZONING CHECKLISTS  
 Public Hearing and Consideration of a request to adopt administrative special use permit checklists. Staff: Department of Planning and Zoning

PLANNING COMMISSION ACTION: Recommend Adoption w/amendments 7-0

(A copy of the Planning Commission report dated May 7, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 05/16/09, and is incorporated as part of this record by reference.)

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

(a) Kathleen Burns, 1036 Pelham Street, representing the West End Business Association (WEBA), stated that the improvements to the small business administrative SUP process is only beneficial to a small fraction who really need help and that the checklist was only a starting point. Ms. Burns noted that the applicants will still need guidance from Planning and Zoning staff and/or an attorney to complete the application process. Ms. Burns requested that City Council include the actions requested by WEBA in the letter dated May 15, 2009.

Council requested a response from staff to the requests from WEBA. In response, Ms. Ross stated that she spoke to staff about setting up a time to review their list of requests in a letter dated April 27. Ms. Ross also noted that many of the changes have already been incorporated in the changes that are before Council.

(b) David Fromm, 2307 East Randolph Avenue, representing the Del Ray Citizens Association, stated the checklists will be a useful tool and he urged City Council's approval. Mr. Fromm suggested that staff actively solicit feedback from applicants to further refine the checklists and rid the process of confusion. Mr. Fromm expressed concern about the interpretation of certain parameters using the seating in a restaurant as an example.

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, City Council closed the public hearing and approved the Planning Commission recommendation and requested that a fall work session be scheduled to address and prioritize additional changes and modifications to the Code to simplify the permit process for small businesses. The voting was as follows:

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

## **REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)**

### **Board of Architectural Review**

10. Public Hearing and Consideration of an Appeal of the Board of Architectural Review's decision approving, as amended, demolition/encapsulation and an addition and alterations at 113 Princess Street, zoned RM Residential, BAR Cases 2008-0158 and 2008-0159. Applicant: Karl and Lydia Svoboda. Appellant: Mr. and Mrs. Allan Gruer on behalf of petitioners.

(A copy of the Planning Commission report dated May 16, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 05/16/09, and is incorporated as part of this record by reference.)

Mr. Milone, Division Chief, Planning and Zoning, gave a presentation of the proposal and responded to questions from City Council.

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

(a) Arthur Keleher, 208 North Royal Street, representing the Board of Architectural Review (BAR) - Old and Historic District, explained the BAR's decision and requested that Council uphold the BAR decision. Mr. Keleher responded to questions

from Council.

(b) Daniel Bernstein, 121 Princess Street, spoke in support of the appeal and requested that Council overturn the BAR decision.

(c) Rose M. Gruer, 111 Princess Street, appellant, spoke in support of the appeal and requested that Council overturn the BAR decision, noting that Planning and Zoning has allowed numerous exceptions that have been accepted by the BAR. Ms. Gruer stated that the addition would destroy the ambiance of the neighboring townhouses.

(d) Donald C. Templeman, 119 Princess Street, spoke in support of the appeal and requested that Council overturn the BAR decision and stated the neighborhood expected the BAR to take a more broad view of the effects the proposal will have on the neighbors and the neighborhood.

(e) Allan L. Gruer, 111 Princess Street, appellant, spoke in support of the appeal and requested that Council overturn the BAR decision. Mr. Gruer noted that the development was approved as a contiguous block and any change allowed would destroy the integrity of the block. Mr. Gruer noted that the National Association of Chain Drug Stores wrote a letter in support of the appeal.

(f) Dr. Jan Forsythe, 115 Princess Street, spoke in support of the appeal and requested that Council overturn the BAR decision. Dr. Forsythe stated that she was concerned about the size, the nuisance during construction and about the risk to her property.

(g) General George R. Brier, 712 Fairfax Way, spoke in support of the appeal and requested that Council overturn the BAR decision and noted that the report minimizes the project which considerably increases the size of the house.

(h) Michael A Matthews, 104 Southpoint Drive, Williamsburg, a structural engineer hired by the neighboring units (111 and 115), spoke in support of the appeal and requested that Council overturn the BAR decision. Mr. Matthews stated that the neighbors are concerned about the demolition process which will require excavation within their property lines.

Councilman Wilson asked when the construction issues would be addressed because they are not BAR issues. In response, Mr. Catlett, Director of Building and Fire Code Administration, noted that once the proposal comes in for permits, it will be reviewed by Code Administration.

(i) Poul Hertel, 1217 Michigan Court, representing the Old Town Civic Association (OTCA), spoke in support of the appeal and requested that Council overturn the BAR decision. Mr. Hertel stated that OTCA looked at the matter in the hopes of preventing bad policy decision and to hopefully prevent this one change

leading to more of same type of changes in the area.

(j) Duncan Blair, 524 King Street, attorney representing the applicant, spoke in support of upholding the BAR decision. Mr. Blair noted that the BAR routinely approved similar additions to the houses that are both historic and nonhistorical. Mr. Blair noted that the applicant has performed due diligence to be sure that all the concerns of the neighbors are addressed. Mr. Blair responded to questions from Council about plans and submitted a petition from the applicant in support of the project.

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

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

**A MOTION** was made by Vice Mayor Pepper to overturn the BAR decision and the application should be denied. The motion failed for lack of a second.

**WHEREUPON**, upon motion by Councilman Gaines, seconded by Councilman Krupicka and carried 4-2, City Council upheld the decision of the Board of Architectural Review to approve, as amended, demolition/encapsulation and an addition and alterations at 113 Princess Street. The voting was as follows:

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

## **ORDINANCES AND RESOLUTIONS**

11. Public Hearing, Second Reading and Final Passage of an Ordinance to Permit the City to Apply An Administrative Fee in the Amount of 20 Percent of the Original Amount Due to Cover the Costs of Collection For Unpaid Parking Tickets.(#11,5/12/09)

(A copy of the City Manager's memorandum dated April 29, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 05/16/09, 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. 11;

05/16/09, 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. 11; 05/16/09, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Smedberg and carried 6-0 by roll-call vote, City Council closed the public hearing and passed an ordinance to permit the City to apply an administrative fee in the amount of 20 percent of the original amount due to cover the costs of collection for unpaid parking tickets. The voting was as follows:

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

The ordinance reads as follows:

#### **ORDINANCE NO. 4590**

AN ORDINANCE to amend and reordain Section 3-2-352 (DIRECTOR OF FINANCE TO ACCEPT PAYMENT OF UNCONTESTED CITATIONS; DELINQUENT CITATIONS) and Section 3-2-354 (PENALTIES FOR UNCONTESTED CITATIONS) of Article S (PAYMENT, CONTEST AND ENFORCEMENT OF PARKING CITATIONS), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

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

Section 1. That Section 3-2-352 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-352 Director of Finance to accept payment of uncontested citations; delinquent citations.

(a) The Director of Finance shall receive and accept payment tendered pursuant to section 3-2-351 for any uncontested parking citations, and shall account for same.

(b) When any parking citation for which payment may be accepted pursuant to section 3-2-351 plus any fees or penalties imposed pursuant to section 3-2-354 are unpaid and uncontested at the expiration of 120 days from the date the citation was

issued, the Director of Finance shall cause a letter to be sent to the last known address of, or the address shown on the records of the division of motor vehicles for the registered owner of the motor vehicle receiving the citation. Such letter shall notify the registered owner that, unless the citation is paid by a specified date not more than 45 days from the date of the letter, a summons or warrant shall be requested to issue to such registered owner to appear in court and answer on the citation. If the citation is unpaid as of the date specified in the letter, the Director of Finance shall obtain a summons or warrant for the registered owner to appear and answer on the citation.

Section 2. That Section 3-2-354 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-354 Penalties for uncontested citations.

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

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

(1) \$40 for a violation of section 10-4-1, "Stopping contrary to directions of police officers;"

(2) \$40 for a violation of section 10-4-2, "Permitting vehicle to remain parked contrary to the directions of an official sign;"

(3) \$40 for a violation of section 10-4-3, "Right to parking space;"

(4) \$40 for a violation of section 10-4-4, "Stopping so as to obstruct traffic or on crossing;"

(5) \$40 for a violation of section 10-4-5, "Double parking;"

(6) \$40 for a violation of section 10-4-6, "Parking trucks or commercial vehicles in residential districts;"

(7) \$40 for a violation of section 10-4-7, "Parking of vehicles by businesses on streets;"

(8) \$25 for a violation of section 10-4-8, "Parking for more than 72 continuous hours;"

(9) \$40 for a violation of section 10-4-9, "Parking trailers or recreational vehicles in residential districts;"

(10) \$40 for a violation of section 10-4-10, "Parking on sidewalk;"

(11) \$40 for a violation of section 10-4-11, "Parking in alleys or courts;"

(12) \$40 for a violation of section 10-4-12, "Parking of vehicles on private property;"

(13) \$40 for a violation of section 10-4-13, "Stopping for purpose of sale, repairs, etc.;"

(14) \$40 for a violation of section 10-4-14, "Use of bus stops;"

(15) \$40 for a violation of section 10-4-15, "Stopping for loading or unloading passengers or cargo generally;"

- (16) \$40 for a violation for section 10-4-16, "Permit for parking truck beside railroad car on public right-of-way;"
- (17) \$40 for a violation of section 10-4-17, "Angle parking for loading and unloading;"
- (18) \$40 for a violation of section 10-4-18, "Use of loading zones;"
- (19) The amount set by order of the Supreme Court of Virginia, pursuant to section 16.1-69.40:1 of the Code of Virginia, as amended, for a violation of subsection (a) of section 10-3-1242, "Parking in spaces reserved for persons with a disability;"
- (20) \$35 for a violation of section 10-4-22, "How meter and space to be used;"
- (21) \$35 for a violation of section 10-4-23, "Overtime parking;"
- (22) \$35 for a violation of section 10-4-24, "Depositing coin in meter for purpose of extending time;"
- (23) \$35 for a violation of section 10-4-25, "Permitting vehicle to remain parked at meter after expiration of time limit;"
- (24) \$40 for a violation of section 10-4-28, "Parking across lines designated parking space;"
- (25) \$40 for a violation of section 10-4-30, "Interfering with enforcement of chapter;"
- (26) \$40 for a violation of section 10-4-33, "Use of metered parking lots by vehicles other than private passenger automobiles;"
- (27) \$40 for a violation of section 10-4-34, "Parking illegally in permit parking districts;"
- (28) \$40 for a violation of section 5-8-114, "Designation of parking spaces; parking across lines;"
- (29) \$40 for a violation of section 10-4-40, "Location of parked vehicles;"
- (30) \$40 for a violation of section 10-4-37, "Failure to procure and display city license plate, windshield tag or decal;"
- (30A) \$40 for a violation of section 10-4-37.1, "Enforcement of the Northern Virginia Local Motor Vehicle License Compact;"
- (31) \$40 for a violation of section 10-4-38, "Parking without display of current state inspection sticker or current state license plate;"
- (32) \$40 for a violation of section 10-4-39, "Temporary parking prohibited;"
- (33) \$40 for a violation of section 9-12-162, "Use of locations other than designated parking spaces by sight-seeing buses;"
- (34) \$40 for a violation of section 9-12-163, "Use of parking spaces designated for use by sight-seeing buses by other vehicles;"
- (35) \$40 for a violation of section 9-12-164, "Use of designated spaces by sight-seeing buses;"
- (36) The amount set by order of the Supreme Court of Virginia, pursuant to section 16.1-69.40:1 of the Code of Virginia, as amended, for a violation of section 10-4-41, "Parking prohibited at certain locations;"
- (37) The amount set by order of the Supreme Court of Virginia, pursuant to section 16.1-69.40:1 of the Code of Virginia, as amended, for a violation of section 10-4-42, "Parking prohibited near fire hydrant, etc.;"
- (38) \$40 for a violation of section 10-4-35, "Parking in two-hour parking zones in the central business district;"

(39) \$40 for a violation of section 10-4-36, "Removal of chalk marks placed for enforcement purposes;"

(40) \$40 for a violation of section 3-2-336, "Offenses relating to city license plate, windshield and decal."

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

(i) that the owner did not find the citation at the time of its issuance on the owner's vehicle and only learned of the citation after the day on which it was issued, and has tendered the required payment with 30 days of first learning of the citation;

(ii) that, within 30 days after the issuance of the citation or, if later, after first learning of the citation, the owner has made a written request to the director for information concerning the citation, and has tendered the required payment within 30 days of the director's response; or

(iii) that the owner was medically incapable of making the required payment within 30 calendar days of the date the citation was issued.

(c) In addition to the fees and charges imposed pursuant to subsections (a) and (b) hereof, upon collection the Director of Finance shall impose on each person chargeable with a delinquent parking citation a fee of twenty percent of charges collected. The fee shall not exceed \$30 for any amount collected subsequent to 30 days or more after notice of a delinquent parking citation is provided by the Director of Finance but prior to taking judgment and shall not exceed \$35 for any amount collected subsequent to judgment.

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

12. Public Hearing, Second Reading and Final Passage of an Ordinance to Allow City Council to Set By Resolution Permit fees for Vending Machines Which Vend Potentially Hazardous Foods and Fees for the Review of Plans and Specifications of Food Establishments. (#12, 5/12/09)

(A copy of the City Manager's memorandum dated May 5, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12;

05/16/09, 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. 12; 05/16/09, 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. 12; 05/16/09; and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Smedberg and carried 6-0 by roll-call vote, City Council closed the public hearing and passed an ordinance to allow City Council to set by resolution permit fees for vending machines which vend potentially hazardous foods and fees for the review of plans and specifications of food establishments. The voting was as follows:

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

The ordinance reads as follows:

#### **ORDINANCE NO. 4591**

AN ORDINANCE to amend and reordain Sections 11-2-23 (PERMITS FOR VENDING MACHINES) OF ARTICLE C (COMPLIANCE PROCEDURES) and Section 11-2-51 (SUBMISSION OF PLANS, SPECIFICATIONS AND OTHER DATA; INSPECTION PRIOR TO OPERATION; FEES) of ARTICLE E (REVIEW OF PLANS AND SPECIFICATIONS) of Chapter 2 (FOOD AND FOOD ESTABLISHMENTS), Title 11 (HEALTH, ENVIRONMENTAL AND SAFETY REGULATIONS) of The Code of The City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 11-2-23 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 11-2-23 Permits for vending machines.

(a) No person shall operate a vending machine which vends potentially hazardous foods, without a valid permit issued by the director. Persons who do not

comply with the requirements of this chapter shall not be entitled to receive or retain such a permit. Vending machine permits are issued for a calendar year and expire on December 31 regardless of the month of issue. Permits are not transferable.

(b) An initial application fee and an annual renewal application fee shall be assessed for each permitted vending machine. These fees shall be established by the City Council. The application fees shall be based on a calendar year and shall be due and payable on or before December 31 or upon initial application. The fees shall not be prorated.

(c) Operators of vending machines failing to file the required application for renewal of the permit shall be operating without a valid permit and shall be subject to immediate closure in accordance with Section 11-2-29 of this chapter.

(d) The operator's company name and service telephone number shall be displayed on each vending machine or conspicuously adjacent to the vending machine bank.

(e) All operators of vending machines shall:

(1) comply with the requirements of this chapter;

(2) maintain at the operator's headquarters, or at some other designated location within the city, a list of all vending machines operated by such operator within the city and the complete address of each machine location and of all commissaries or other establishments from which his machines are serviced, shall make this information available to the director upon request and shall keep it current;

(3) notify the director of each new vending machine location at which potentially hazardous food vending machines have been placed in operation; and

(4) notify the director of any change in operations involving new types of vending machines or conversions of existing machines to dispense products other than those for which the machines were built.

Section 2. That Section 11-2-51 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

(a) Whenever a food establishment is constructed or remodeled or whenever an existing structure is converted to use as a food establishment, plans and specifications for such construction, remodeling, or conversion shall be submitted to the director for his review prior to commencement of such construction, remodeling or conversion. The director shall verify that the plans and specifications conform to the requirements of this chapter and the FDA Food Code. The plans and specifications shall include the intended menu, anticipated volume of food to be stored, prepared, and sold or served,

the proposed layout and arrangement of the facilities, plumbing plans, mechanical plans, electrical plans, finish schedules, lighting schedules, and the types, model numbers, locations, dimensions, performance capacities and installation specifications of proposed fixed equipment and facilities. The director may require additional plans or information, as needed, depending on the nature and extent of the proposed construction, remodeling or conversion. The director shall approve the plans and specifications if they meet the requirements of this chapter and the FDA Food Code. The director's approval of any plans or specifications shall not be viewed to be a determination that said plans or specifications are free from error. The owner shall have final responsibility for the accuracy and completeness of the plans and specifications, as well as for subsequent construction and installation. No food establishment shall be constructed, remodeled or converted except in accordance with plans and specifications approved by the director.

(b) Whenever plans and specifications are required to be submitted and approved, the director shall inspect the food establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements contained in this chapter.

(c) A plan review fee in an amount established by city council shall be paid to the director upon submission of food establishment plans.

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

13. Public Hearing, Second Reading and Final Passage of an Ordinance to Decrease the Portion of the Real Estate Tax Allocated to the Alexandria Affordable Housing Initiatives Account from \$0.01 per \$100 of Assessed Value to \$0.007 per \$100 of Assessed Value. (#13, 5/12/09)

(A copy of the City Manager's memorandum dated May 1, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 05/16/09, 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. 13; 05/16/09, 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. 13; 05/16/09, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried 6-0 by roll-call vote, City Council closed the public hearing and passed an ordinance to decrease the portion of the real estate tax allocated to the

Alexandria Affordable Housing Initiatives Account from \$0.01 per \$100 of assessed value to \$0.007 per \$100 of assessed value. The voting was as follows:

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

The ordinance reads as follows:

### **ORDINANCE NO. 4592**

AN ORDINANCE to amend and reordain Section 3-1-5 (ALEXANDRIA AFFORDABLE HOUSING INITIATIVES ACCOUNT), Chapter 1 (GENERAL PROVISIONS), 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 3-1-5 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-1-5 Alexandria Affordable Housing Initiatives Account.

(a) Establishment of account. There is hereby established for the City of Alexandria a permanent account within the Alexandria Affordable Housing Fund to be known and designated as The City of Alexandria Affordable Housing Initiatives 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, for the fiscal year commencing July 1, 2009 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 \$0.007 on each \$100 of the assessed value of all real estate subject to such tax.

(c) Expenditures from account. Notwithstanding any contrary provision of law, appropriations from the said Account shall be authorized and made exclusively to assist, finance and support, directly or indirectly, the provision of housing which is affordable to households with incomes up to the limits established in the City's Affordable Housing Policy, as from time to time amended. 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) The provision of housing defined. As used in this section, the provision of

housing includes, without limitation, the preservation of existing housing; the construction of new housing, or financial or other assistance for the purchase and/or rental of housing units, in accordance with the City's Affordable Housing Policy, or with the City's Consolidated Plan for Housing and Community Development, as from time to time amended.

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

14. Public Hearing, Second Reading and Final Passage of an Ordinance to Increase the Parking Meter Rate in Parking Meter Zone 3 From \$1.00 Per Hour to \$1.25 per Hour For On Street Parking, Payable in Such Increments as Provided at the Applicable Meter or Pay Station. (#14, 5/12/09)

(A copy of the City Manager's memorandum dated May 4, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 05/16/09, 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. 14; 05/16/09, 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. 14; 05/16/09, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Krupicka, seconded Vice Mayor Pepper and carried 6-0 by roll-call vote, City Council closed the public hearing and passed an ordinance to increase the parking meter rate in parking meter zone 3 from \$1.00 per hour to \$1.25 per hour for on street parking, payable in such increments as provided at the applicable meter or pay station. The voting was as follows:

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

The ordinance reads as follows:

#### **ORDINANCE NO. 4593**

AN ORDINANCE to amend and reordain Section 5-8-93 (PARKING METERS; HOURS AND DAYS OF OPERATION; MAXIMUM TIME LIMITS; RATES), of Division 1 (PARKING METER ZONES), Article G (PARKING METERS), Chapter 8 (PARKING AND TRAFFIC REGULATIONS), Title 5

(TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 5-8-93 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 5-8-93 Parking meters; hours and days of operation; maximum time limits; rates.

(a)(1) The parking meters in zones 1 and 2, established by section 5-8-92 of this code, shall be operated every day of the week except Sundays and legal state holidays, and the daily hours of operation of the meters shall be determined by resolution of the city council; provided, that, within the area bounded on the north by the north side of Princess Street, on the west by a line 10 feet to the east of and running parallel to the east side of Washington Street, on the south by the south side of Wolfe Street and on the east by the Potomac River, meters which permit a maximum of two hours of parking shall be in operation from 8:00 a.m. until 7:00 p.m.

(2) The parking meters in zone 3 established by section 5-8-92 of this code shall be operated every day of the week except Saturdays, Sundays and state legal holidays, and the daily hours of operation of the meters shall be determined by resolution of the city council.

(b) The maximum time limit for parking in any space in parking meter zones 1, 2 and 3 shall be set forth on the meter for that space, and shall be 20 minutes, two hours or, in zones 1 and 3 only, four hours.

(c) In parking meter zones 1 and 2, the rate shall be \$1.00 per hour and in parking meter zone 3, the rate shall be \$1.25 per hour. In all parking meter zones, the applicable rate shall be payable in such increments as provided at the applicable meter or pay station.

(d) As used in this article, the phrase parking meter shall be deemed to include a parking pay station for multiple parking spaces, and all provisions applicable to parking meters shall apply to parking pay stations, *mutatis mutandis*.

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

15. Public Hearing, Second Reading and Final Passage of an Ordinance to Impose a Maximum Service Period of 10 Consecutive Years for Any Member of a Board, Committee or Commission, Unless the Term of Service is Otherwise Governed by State Law, City Code or By Another Document That Creates the Committee, Board or Commission. (#15, 5/12/09)

(A copy of the City Manager's memorandum dated May 8, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 05/16/09, 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; 05/16/09, 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; 05/16/09, and is incorporated as part of this record by reference.)

This item was deferred.

16. Public Hearing, Second Reading and Final Passage of an Ordinance to Increase the City's Tobacco Tax Rate From \$0.70 to \$0.80 Per Pack. (#16, 5/12/09)

(A copy of the City Manager's memorandum dated May 4, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 16; 05/16/09, 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; 05/16/09, 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 of Council, marked Exhibit No. 3 of Item No. 16; 05/16/09, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Wilson, seconded by Councilman Gaines and carried 6-0 by roll-call vote, City Council closed the public hearing and approved an ordinance to increase the City's tobacco tax rate from \$0.70 to \$0.80 per pack. The voting was as follows:

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

The ordinance reads as follows:

**ORDINANCE NO. 4594**

AN ORDINANCE to amend and reordain Section 3-2-102 (LEVY AND RATE) of Article I (TAX ON SALE OF CIGARETTES) of Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-2-102 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 3-2-102 Levy and rate.

(a) In addition to all other taxes of every kind now or hereinafter imposed by law, there is hereby levied and imposed by the city, upon every person who sells or uses cigarettes within the city, from and after the effective date of this article an excise tax equivalent to \$0.80 for each package of cigarettes sold or used within the city. The tax shall be paid and collected in the manner and at the time hereinafter prescribed; provided, that the tax payable for each cigarette or cigarette package sold or used within the city shall be paid but once.

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

## **REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)**

### **DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

#### **Planning Commission (continued)**

17. ENCROACHMENT #2009-0001  
3500 GODDARD WAY  
RETAINING WALL

Public Hearing and Consideration of a request for an encroachment into the public right-of-way for a retaining wall; zoned RB/Residential. Applicant: Duke Crossing, Inc.

PLANNING COMMISSION ACTION: Deferred 7-0

#### **END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

City Council noted the deferral.

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**THERE BEING NO FURTHER BUSINESS TO DISCUSS**, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council

adjourned the public hearing meeting of May 16, 2009 at 1:13 p.m. The voting was as follows:

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

APPROVED BY:

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WILLIAM D. EUILLE    MAYOR

ATTEST:

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Gloria A. Sitton, CMC Deputy City Clerk