


City of Alexandria, Virginia

6  
11-15-08

MEMORANDUM

DATE: NOVEMBER 10, 2008

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: ADDENDUM (PROPOSED AMENDMENTS TO THE CITY CHARTER) TO PROPOSED CITY LEGISLATIVE PACKAGE FOR THE 2009 GENERAL ASSEMBLY SESSION

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**ISSUE:** Addendum (proposed amendments to the City Charter) to proposed City Legislative Package for the 2009 General Assembly Session.

**RECOMMENDATION:** That City Council receive this addendum, which includes proposed Charter amendments, to the City's 2009 Legislative Package. These Charter amendments (together with the rest of the City Package) have been scheduled for public hearing on Saturday, November 15. The entire Legislative Package will be adopted Tuesday, November 25, following Council's work session with the General Assembly delegation.

**DISCUSSION:** Staff presented a draft 2009 Legislative Package to Council at the October 28, 2008, Council meeting. At that time, Council added two items, both Charter amendments, to the Package.

**Term Limits on Members of Boards and Commissions.** The first of these would add a provision to the City Charter that would make it clear that Council has authority to set limits on the terms of members it appoints to City boards, committees, authorities, councils, task forces, work groups and commissions. This proposal came from Council's Committee on Boards and Commissions, which recommended the following in its June 19, 2008, report:

The Committee recommends that unless specified by federal, state or City legislation, after serving 10 consecutive years on any board, commission or committee, at the expiration of the current term, the incumbent would not be eligible for immediate reappointment to that group, but can apply for the next vacancy. Any incumbents as of the effective date of the ordinance would be eligible for at least one more consecutive term.

**Disclosure Requirements.** The second item that was added to the draft Legislative Package is actually a set of proposals that seeks to "improve openness and accountability within City Hall." These amendments, if incorporated into the Charter, would:

- Require applicants for land use or land development approvals before the City Council, Planning Commission, Boards of Architectural Review, and Board of Zoning Appeals to disclose all investors in the proposed land use or land development approval prior to the hearing by the applicable body;
- Require applicants for land use or land development approvals before the City Council, Planning Commission, Boards of Architectural Review, and Board of Zoning Appeals to disclose any current or previous (within the prior 12 months) financial interest (including campaign contributions if so requested in the proposed Charter Bill) involving the applicants, agents and/or investors, with any of the individual members of the applicable body; and

Council also said it would consider Charter language that could place limits on campaign contributions from those who have land use applications before it, but did not endorse this concept at the October 28 meeting. Staff subsequently reviewed the Fairfax disclosure requirements with Fairfax staff, and was advised that County Supervisors must disclose campaign contributions from land use applicants; the County disclosure law does not generally prohibit Supervisors from voting on applications from campaign contributors.

**STAFF:**

Bernard Caton, Legislative Director

**ATTACHMENTS:**

Attachment 1 – Report from the Council Committee on Boards and Commissions (without attachments), June 19, 2008


Attachment 2 – “Reform of Disclosure Requirements,” October 28, 2008, memorandum from Councilmen Rob Krupicka, Paul Smedberg & Justin Wilson

EXHIBIT NO. 1

City of Alexandria, Virginia

MEMORANDUM

~~35~~  
~~6-24-08~~

DATE: JUNE 19, 2008  
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL  
FROM: JAMES K. HARTMANN, CITY MANAGER   
SUBJECT: REPORT FROM THE COUNCIL COMMITTEE ON BOARDS AND COMMISSIONS

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**ISSUE:** Receipt of the Report from the Committee on Boards and Commissions.

**RECOMMENDATION:** That City Council receive the report and request the Executive Secretary for Boards and Commissions to distribute the docket item to all boards and commissions for review and comment.

**BACKGROUND:** In January, Council established a committee to review the City's general requirements for board and commission appointments, term limits, and determine whether efficiencies could be made by combining groups with similar mission statements and sunseting those whose mission had been completed (Attachment 1). At the February 12 meeting, Council asked the Committee to also review the residency waiver policy for board and commission appointments. The Committee members are Vice Mayor Redella S. Pepper, Council Member Timothy B. Lovain, Deputy City Manager Michele Evans, and Executive Secretary for Boards and Commissions Rose Williams Boyd.

**DISCUSSION:** The Committee's recommendations follow.

**Proposed Recommendations of a General Nature:**

1. References Section on the Personal Data Form completed by all applications for appointment to a board or commission should be amended to read:  
  
"Please list names and addresses of four references that you have contacted, know your qualifications for the position, and support your application." Copy of current form is attached (Attachment 2).  
  
Rationale: This addresses the concern that several persons listed as references in the past were unaware of the fact that they had been listed as a reference and did not necessarily support the appointment of the applicant.
2. Codify all standing committees created via resolution or docket item and task forces that have become ongoing groups. These groups are listed below.

- Gang Prevention Community Task Force
- Beautification Commission
- Local Emergency Planning Committee
- Park and Recreation Commission

Rationale: Section 2-4-4 (a) of the City Code requires that all standing committees be established by City ordinance.

3. Require annual reports to be submitted, that include a statement of specific goals for the coming year, since the City Code requires such a report, at the time the Annual Attendance Reports are due to ensure that every group submits.

Rationale: The submission of annual reports by boards and commissions will allow the City Council to review the activities of the groups and determine whether they can be sunset or are duplicating the efforts of another group.

4. The Committee does not recommend a change to the current residency waiver policy at this time.

Rationale: Many business owners/managers and others involved in City activities do not reside in Alexandria. All initial appointments involving non-residents will be docketed as a contested appointment, and Council can decide whether it wishes to grant a residency waiver.

5. Unopposed non-resident incumbents and City staff in designated position appointments should be docketed as uncontested appointments.

Rationale: Once Council has granted a residency waiver, there is an assumption that the waiver will be granted on subsequent occasions for incumbents. Many City employees are appointed based on federal/state/local statutory requirements and must be appointed to the position.

6. Groups that meet on a monthly basis should determine whether they can meet on a bi-monthly or quarterly basis.

Rationale: This will eliminate unnecessary meetings and decrease the amount of staff time devoted to board and commission meetings.

**Boards, Commissions and Committees Mission Review Recommendations:**

1. Groups that have completed their tasks and can be abolished
  - Ad Hoc Task Force to Review New Police Facility Sites
  - Ad Hoc Transportation Policy and Program Task Force

- Potomac Yard Fire Station and Affordable Housing Task Force
- Transportation Safety Commission

2. Groups that need to be studied further before a decision can be made

- Beautification Commission – The Committee recommends that the role of this group be expanded to deal with the beautification of City portals and tie this effort in to the City’s overall marketing efforts.
- Commission on Information Technology – Committee recommends that the mission statement of the group be rewritten to reflect 21st century technology with the City using this group as a sounding board for new technologies. The Committee also recommends that the IT Commission discuss whether and to what extent telecommunications issues and complaints stay with the IT Commission or be transferred to the Consumer Affairs Commission. The IT Commission’s recommendation(s) should be reviewed by the Consumer Affairs Commission before submission to the City Council.
- Alexandria Economic Development Partnership Board - The Economic Sustainability Report recommends that no City Council member or staff person should serve on the AEDP Board. AEDP is reviewing its structure and will be reporting to the Council in the fall.
- Commission on HIV/AIDS - The membership of this group should be restructured by broadening the positions (it appears that there are too many designated positions that are currently unfilled) and reducing its size.
- Fair Housing Testing Program Advisory Committee and Affordable Housing Advisory Committee should be combined for better efficiency of operations.

**Term Limits:**

- The Committee recommends that unless specified by federal, state or City legislation, after serving 10 consecutive years on any board, commission or committee, at the expiration of the current term, the incumbent would not be eligible for immediate reappointment to that group, but can apply for the next vacancy. Any incumbents as of the effective date of the ordinance would be eligible for at least one more consecutive term. This limitation would not apply to the groups listed below or to organizational designees in designated positions, elected officials and their designees, and City staff.

The following groups have policy-making and/or regulatory authority and the Committee and the City Attorney will study whether there are legal obstacles to imposing term limits on these groups.

1. Planning Commission
2. Board of Architectural Review (both panels)
3. Board of Real Estate Assessments
4. Board of Zoning Appeals
5. Community Services Board (already has term limits)
6. Sanitation Authority
7. Building Code Board of Appeals

**ATTACHMENTS:**

Attachment 1. Listing of All Boards and Commissions

Attachment 2. Personal Data Form

**STAFF:**

Rose Williams Boyd, Executive Secretary for Boards and Commissions

Michele Evans, Deputy City Manager

*City of Alexandria, Virginia*

**MEMORANDUM**

DATE: OCTOBER 28, 2008

TO: THE HONORABLE MAYOR & MEMBERS OF THE CITY COUNCIL

FROM: COUNCILMEN ROB KRUPICKA, PAUL SMEDBERG & JUSTIN WILSON

SUBJECT: REFORM OF DISCLOSURE REQUIREMENTS

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There are a series of reforms that we believe will help us improve openness and accountability within City Hall. Taken together, it is our belief that this package of initiatives will help reinforce the confidence Alexandrians have in the transparency that accompanies the deliberations of the City Council, the Planning Commission, the Boards of Architectural Review and the Board of Zoning Appeals.

Recently, the City Council has successfully utilized its Legislative Package to advocate for meaningful changes to the Code of Virginia relating to the timely disclosure of campaign finance information, as well as disclosure of pre-election activity by newly-formed Political Action Committees.

We request our colleagues' support of three actions:

- 1) Inclusion in our Legislative Package of a request for amendment to the City of Alexandria Charter providing that applicants before the City Council, Planning Commission, Boards of Architectural Review, and Board of Zoning Appeals must disclose all investors in their application prior to the hearing by the applicable body.
- 2) Inclusion in our Legislative Package of a request for amendment to the City of Alexandria Charter providing that individual members of the City Council, Planning Commission, Boards of Architectural Review, and Board of Zoning Appeals must disclose any current or previous (within 12 months) financial interest (excluding campaign contributions) with any of the investors in any application pending before that body.
- 3) Adoption of a City Code provision (if such authority exists) or inclusion in our Legislative Package of a request for amendment to the City of Alexandria Charter to allow the City Council to prohibit the acceptance of campaign contributions from applicants before the City Council.

As the only jurisdiction in the Commonwealth utilizing the Urban County Executive form of Government, Fairfax County is subject to the provisions of 15.2-852 of the Code of Virginia. This Code section provides that all applicants before the Board of Supervisors,

Planning Commission and Board of Zoning appeals disclose all investors in their application in advance of their hearing.

Furthermore, individual members of the body hearing that application must disclose any current or previous financial interest with investors of the application before them.

Additionally, the General Assembly adopted Senate Bill 532 during the 2008 session. This legislation imposed restrictions on Loudoun County similar to the restrictions on Fairfax County.

In July of 2008, Loudoun County adopted a new Board of Supervisors Policy to address the acceptance of campaign contributions from those that have business before the Board of Supervisors. This new provision provides that members of the Board cannot accept contributions from applicants beginning when the application is initially filed, and concluding 6 months after final action or when the application is withdrawn.

Cc: James K. Hartmann, City Manager  
Ignacio B. Pessoa, City Attorney  
Bernard Caton, Legislative Director  
Alexandria Planning Commission  
Alexandria Board of Zoning Appeals  
Alexandria Boards of Architectural Review



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11-15-08

Ignacio Pessoa/Alex  
11/14/2008 02:30 PM

To wmeuille@wdeuille.com, alexvamayor@aol.com,  
delpepper@aol.com, Councilmangaines@aol.com,  
rob@krupicka.com, smedbergpc@aol.com,  
cc Jim Hartmann/Alex@Alex, Michele Evans/Alex@Alex, Mark  
Jinks/Alex@Alex, Jackie Henderson/Alex@Alex, Gloria  
Sitton/Alex@Alex, Bernard Caton/Alex@Alex  
bcc

Subject Draft Charter Bill provisions relating to zoning disclosure

Attached for council's possible consideration is draft language for new City Charter provisions dealing with public disclosure in the context of zoning applications.

As drafted, these provisions give council the authority and flexibility, if it so chooses, to adopt reasonable disclosure provisions tailored to the perceived needs and expectations in Alexandria, but do not mandate any action by council. Bernie and I met yesterday with representatives of the Fairfax County Attorney's Office, and Chairman Connolly's staff, to discuss practical concerns with the administration and enforcement of these types of disclosure requirements. The present draft was intended to give council the flexibility to minimize any burden from new requirements, should they be adopted.

The draft includes three substantive provisions. The first, Subsection A, includes a grant to council of the authority to require the disclosure of real parties in interest to zoning applications. Limited authority for this requirement exists today under Virginia law, but the authority under this subsection gives council more discretion, as explained with respect to subsections D and E below.

The second, Subsection B, grants authority to require the disclosure of business or financial relationships between the real parties in interest and members of the council, board or commission before whom the application is pending.

The third, Subsection C, provides authority to require the recusal of such members who have business or financial or relationships with parties in interest.

Subsections D and E give council authority to adopt appropriate definitions; classifications of different types of interests, and specify different requirements and results depending on the type of interest. Thus, the council would not be bound by the existing definitions, classifications and results which the General Assembly has mandated in the Virginia Code for Fairfax and Loudoun Counties. However, council could not adopt a local ordinance with more stringent or inclusive disclosure requirements than are applicable in those counties. In essence, there is no floor to what council could adopt, but there is a cap.

Subsections F and G provide the penalty for violation, the same as in Fairfax and Loudoun, and specify that this charter section, if adopted, would prevail over any conflicting and less stringent provisions of Virginia's general Conflict of Interests Act.

Please let me know if you have any questions at this time.



1 DRAFT CHARTER BILL PROVISIONS

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3 Section 9.12.2 Disclosure by applicants.

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5 A. The zoning ordinance may provide that each applicant for a land  
6 use or land development approval pursuant to such ordinance make full  
7 public disclosure of parties having an ownership interest in the real  
8 estate which is the subject of the application, and of parties having any  
9 other financial interest in such application or approval.

10  
11 B. The zoning ordinance may further provide that a party having an  
12 ownership interest in such real estate or any other financial interest in  
13 such application or approval make full public disclosure of any business  
14 or financial relationship which such party presently has, or within the  
15 12-month period prior to the public hearing on the application has had,  
16 with each member of the planning commission, board of zoning  
17 appeals, boards of architectural review and city council, as the case may  
18 be.

19  
20 C. The zoning ordinance may further provide that a member of the  
21 planning commission, board of zoning appeals, boards of architectural  
22 review and city council, as the case may be, who has or has had a  
23 business or financial relationship subject to disclosure under subsection  
24 (B) shall be ineligible to vote or participate in any way in consideration  
25 of the application.

26  
27 D. The ordinance may establish reasonable classifications and  
28 definitions of the nature and extent of the ownership and other financial  
29 interests subject to the disclosures provided under subsections A and B,  
30 provided that such classifications and definitions shall not be more  
31 inclusive or stringent than the classifications and definitions established  
32 by Section 15.2-833 of the Code of Virginia.

33 E. The ordinance may establish reasonable classifications and  
34 standards for the disclosures provided under subsections A and B, and  
35 for the recusal provided under subsection C, provided that such  
36 classifications and standards shall not be more inclusive or stringent  
37 than the classifications and standards established by Section 15.2-833 of  
38 the Code of Virginia, and may establish reasonable procedures for the  
39 administration of the ordinance.

40

41 F. Any person who knowingly and willfully violates the provisions of  
42 the zoning ordinance adopted pursuant to this section shall be guilty of  
43 a Class 1 misdemeanor.

44

45 G. The provisions of this section preempt any conflicting provisions of  
46 law, general or special, except that any provision of the State and Local  
47 Government Conflict of Interests Act, Virginia Code Section 2.2-3100,  
48 *et seq.*, which is more stringent than the provisions of any ordinance  
49 adopted pursuant to this section shall not be preempted.