

**CITY COUNCIL OF ALEXANDRIA, VIRGINIA**

**Public Hearing Meeting**  
**Saturday, December 12, 2009 - - 9:30 a.m.**

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Present: Mayor William D. Euille, Vice Mayor Kerry J. Donley, Members of Council Frank H. Fannon, K. Rob Krupicka, Redella S. Pepper and Paul C. Smedberg.

Absent: Member of Council Alicia Hughes.

Also Present: Mr. Hartmann, City Manager; Mr. Banks, City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Ms. Harris, Communications Officer, City Manager's Office; Mr. Gates, Assistant City Manager; Police Lt. Uzzell; Mr. Baier, Director, Transportation and Environmental Services; Mr. Garbacz, Division Chief, Transportation and Environmental Services; Ms. Hamer, Director, Planning and Zoning; Ms. Wright, Planning and Zoning; Ms. Escher, Planning and Zoning; Mr. Randall, Planning and Zoning; Ms. Parker, Planning and Zoning; Fire Chief Thiel; Mr. Catlett, Director, 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.

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

2. Public Discussion Period.

(a) Dr. Stephen Kauffman, 3450 N. Beauregard Street, representing the Beauregard Medical Center and its patients, spoke of the King Street/Beauregard project, which is scheduled to begin construction in 2011, and said the project will take away one-half of the parking spaces in front of the medical center, which will lead to the inability of his patients to park and for the Center to continue to practice in that area. He said the Department of Transportation hasn't been completely honest in their depiction of how it will go about, as in 2007, they produced a booklet that said no businesses would be impacted by it, and in 2009, there is an absence of that statement in the book. Dr. Kauffman said the biggest problem is they want to build the median

strip along Beauregard Street, and they want to build two turn lanes on King Street. He said there is already a median on Beauregard Street and it allows perfect access into their medical clinic. Also proposed is a bicycle path, but the path stops before Braddock Road, so no one will be able to use the bicycle path to hook up with the W&OD trail in Arlington and access to the Northern Virginia Community College.

(b) Oscar Fitzgerald, 206 W. Monroe Avenue, vice chair of the Alexandria Library Board, asked Council to not significantly cut the library budget, as the library is a cheap investment, and last year the library suffered a \$2 million cut, the largest budget reduction on a percentage basis of any City department. He noted the various community groups and citizens that use the libraries. He asked Council to keep the library doors open for maximum usage and the shelves stocked with the latest materials.

(c) Annabelle Fisher, 5001 Seminary Road, spoke of the meeting on the King Street Beauregard transportation intersection improvements on November 18, and she said the advertised public meeting did not start as a planned meeting by the Engineering staff, who stated it was a meeting to talk one-to-one. She said the City staff filibustered and refused to answer questions from citizens and staff has swept the matter under the carpet for two years, and she thought the City would have had transparency in government. She said the proposal will allow u-turns at King Street and Beauregard in any direction, and consultants will be talking with the various businesses and condo owners about right-of-way property acquisition - buying up their land to make the project happen. She asked what has happened to the \$500,000 the City paid to tear down the former hospital on King Street where a business deal would have been made to have the Alexandria School Board headquarters move to that site. She asked that there be other public meetings on the matter.

Transportation and Environmental Services Director Baier said they are looking at several mitigating areas for the parking, noting that they have had several meetings over the last four years, and the last one was about a month and a half ago, and they have given several presentations to both the Transportation Commission and the Traffic and Parking Board. He said they will continue to work with the community and all of Alexandria and are doing so in an analytical way.

(d) David Caplan, 418 Queen Street, thanked Council for buying the hybrid trolleys for Old Town/King Street using stimulus grants, and he offered Council a challenge to take some of the elements that made the trolley so successful and apply that to other parts of the fixed route bus system, like Del Ray. He said it misses a great opportunity to better leverage the bus routes and bring in additional revenue to the system, and the DASH AT10 route would make a great demonstration project. Mr. Caplan said it runs every day from King Street to Potomac Yard via Mt. Vernon Avenue and it is one of the most productive routes in the DASH system, yet it runs only hours on weekends.

(e) Gary Carr, 218 Aspen Street, spoke of the needs for running tracks at

Frances Hammond and George Washington Middle School, and he asked the Council to fix the tracks at the schools.

(f) Rodger Digilio, 1110 King Street, president, King Street Gardens Park Foundation, a foundation that was set up to assist the City in operating the largest piece of public art in the City - King Street Gardens Park, said the Foundation tries to raise revenue that can support much needed improvements in the park and they had instituted a buy-a-brick campaign when the park was built, and the bricks and elements are still available for purchase. He said they are trying to raise \$8,000 to allow the City to replace the irrigation system so they can make the park look more presentable.

(g) Amy Slack, 2307 E. Randolph Avenue, spoke about strategic planning for goal #1, and she thought about how it did a great deal to do outreach to people who are not engaged in the process. She said they have an entire industry which is vital to goal #1 - it is an industry that employs 800 people - and that is the taxi industry. She said she would like for the SBD, the ACVA, and Economic Policies to address the industry and do outreach to the industry. Ms. Slack said it is important to bring the providers into the system and make them realize how vital they are.

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**NEW BUSINESS ITEM NO. 1:** Assistant City Manager Gates gave a status update on where they are on the Strategic Goal Planning Process.

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**REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES**

**ACTION CONSENT CALENDAR**

**Planning Commission**

None.

**END OF ACTION CONSENT CALENDAR**

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

**Planning Commission (continued)**

3. SPECIAL USE PERMIT #2009-0066 (A)  
REZONING #2009-0002 (B)  
MASTER PLAN AMENDMENT #2009-0003 (C)  
760 JOHN CARLYLE STREET AND 1800 EISENHOWER AVENUE  
CARLYLE PLAZA (CARLYLE - BLOCK P)  
Public Hearing and Consideration of a request to A) amend the Carlyle Special Use Permit approval and the Design Guidelines for Block P to remove lots 803

and 804 and floor area; B) rezone the subject properties from CDD #1 (Duke Street) to CDD #11 (South Carlyle); and C) amend the Eisenhower East Small Area Plan to update the development controls for CDD #11 and include design guideline for Block 26A (formerly Block P); zoned CDD #1/Coordinated Development District -1. Applicant: Carlyle Plaza LLC represented by Jonathan Rak, attorney.

PLANNING COMMISSION ACTION:   MPA Resolution Adopted 7-0  
  SUP Recommend Approval 7-0  
  REZ Recommend Approval 7-0

(A copy of the Planning Commission report dated December 12, 2009 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 12/12/09, and is incorporated as part of this record by reference.)

Planner Parker made a presentation of the report and she, along with Ms. Wright, Planning and Zoning, responded to questions of City Council.

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

(a) Jonathan Rak, attorney representing the applicant, 1750 Tysons Blvd., #1800, McLean, spoke in favor of the application.

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

Smedberg	"aye"	Donley	"aye"
Pepper	"aye"	Fannon	"aye"
Euille	"aye"	Hughes	absent
	Krupicka	"aye"	

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice Mayor Donley and carried unanimously, City Council approved the Planning Commission recommendations. The voting was as follows:

Smedberg	"aye"	Fannon	"aye"
Donley	"aye"	Hughes	absent
Euille	"aye"	Krupicka	"aye"
	Pepper	"aye"	

**REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER**

4. Public Hearing and Consideration of the Virginia Department of Transportation (VDOT) Proposed Route I-395 Direct Access Ramp Alternatives for the BRAC-133 Project at Mark Center. (#6, 11/21/09)

(A copy of the City Manager's memorandum dated December 7, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 4; 12/12/09, and is incorporated as part of this record by reference.)

Director of Transportation and Environmental Services Baier made a presentation of the report and he, along with Deputy City Manager Jinks and Nick Nicolson, regional transportation manager for VDOT, and Paul Perdoe, with Baker Engineering, responded to questions of City Council.

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

(a) Jodie Smolik, executive director, the Winkler Botanical Preserve, speaking on behalf of the Winkler family and the board of directors, asked Council to vote no impact on the Preserve. She asked those in the audience in favor of The Preserve to stand and be recognized.

(b) John Perlman, 9 East Maple Street, submitted posters from Mt. Vernon Community School, copies of 350 names on a petition and a packet with letters from the schools, and he read from some of the letters in support of saving Winkler.

(c) Jessica Miller, 61 E. Taylor Run Parkway, representing Fairfax Park Authority, Naturalists, and Northern Virginia Community College and students throughout the area, spoke in support of the design option for Sanger Avenue, providing direct access to 395.

(d) Christina Lytle, 3925 Col. Ellis Avenue, said they don't want the employees on their local neighborhood roads and destroying up to 30 percent of Winkler will not ensure that there will be less traffic, and she asked that the Council vote to not impact the Preserve.

(e) Lucie and Leslie Lytle, 3925 Col. Ellis Avenue, students, spoke in favor of protecting Winkler and not putting a road through Winkler.

(f) Freeman Jelks, 611 N. View Terrace, spoke in favor of protecting the Preserve.

(g) Andrew Macdonald, 217 N. Columbus Street, spoke in favor of protecting the Preserve, noting that it needs to hire an independent group, form a citizen committee, set up a bond on the developer and evaluate the option, preferably no road anywhere near the Preserve, to establish oversight over VDOT.

(h) Chet Humberd, 4850 Mark Center Drive, representing the Institute for Defense Analyses, proposed that VDOT consider another alternative, which is to use a flyover ramp from the HOV lanes, except it would go further north on 395, short of the Seminary Road interchange and would come across the top edge of the remote inspection facility.

(i) Peter Benavage, 5066 Fairbanks Avenue, said A1 and A2 won't work and proposed that a transportation hub be put in in the northeast quadrant of the Seminary/Beauregard intersection, and it should look at the Small Area Plan as a whole.

(j) Susan Miranda, 600 West View Terrace, spoke in favor of protecting the Winkler Preserve, and she said the Sanger intersection should not be accessible to or from the highway.

(k) Laura Plaze, 402 Cambridge Road, spoke on behalf of Friends of Winkler and in support of protecting the Preserve.

(l) Ralph Erickson, 8123 Saxony Drive, Annandale, spoke in support of Winkler and the programs it provides to the community.

(m) Kay Arndorfer, 2920 Richmond Lane, president, Charles Barrett Elementary PTA, spoke in opposition to any development that would encroach into the Winkler Preserve.

(n) Timothy Dickson, 500 Cathedral Drive, entered his letter into the record in support of protecting Winkler and the testimony of David Dale, co-chair of the Mt. Vernon Council of Civic Associations.

(o) Annabelle Fisher, 5001 Seminary Road, spoke of her concern for using Sanger, noting the traffic on Seminary and Beauregard, and noting that she liked the idea of a flyover ramp. She said there needs to be a shuttle bus that will take people directly from the BRAC site to the Pentagon and Springfield Metros.

(p) David Dexter, 5600 Harding Avenue, spoke in support of eliminating consideration of the Winkler Preserve, and he said the Sanger Avenue alternative for direct access option needs to be more fully evaluated by the Transportation Commission and the community before VDOT is directed to pursue it.

(q) Matthew Fenimore, 9320 Ludgate Drive, along with Rosemary Williams, said they are students at Blessed Sacrament School and they spoke in support of not destroying Winkler and they submitted a petition with 350 signatures by students and teachers at Blessed Sacrament.

(r) Susan Pettey, 220 N. Royal Street, spoke in support of preserving the Winkler Foundation without infringement of paving it.

(s) Ivy Sinaiko, 6101 Larstan Drive, speaking as a board member and past president of the Lincolnia Hills/Heywood Glen Civic Association, spoke in support of preserving the Winkler Preserve and supporting the Transportation Commission's recommendation to consider how a larger area of study may offer transportation

solutions, support including the Duke Street interchange in VDOT studies and will remain open to what may be possible at Sanger Avenue if it is a realistic plan.

(t) David Kauffman, 6345 Woodside Court, Columbia, Maryland, said his civic association has the same issues as is on this site, and with regard to the Beauregard Medical Clinic at the Beauregard/King Street area, part of the design is for paths for bicycles, and he asked why 32 feet is necessary, as he didn't think people would bike in from out of the area to go to this facility. He said it won't help BRAC and it will not help traffic.

(u) Don Buch, 389 Livermore Lane, asked Council to not confine itself to selecting an option from a list of non-solutions. He asked if it was realistic to build an interstate off-ramp to serve 1,800 vehicles, and they deserve to know if the City is prepared to take a stand on The Preserve and if it can protect The Preserve, noting that they need a broad, holistic approach to traffic in, through and around the area.

(v) Katherine McGrady, 4825 Mark Center Drive, Chief Operating Officer, CNA, said their concern is the proximity of DOD's remote inspection facility at the corner of the property adjacent to I-395, and she questioned safety and security. Ms. McGrady spoke of the traffic issues and the lack of a plan to funnel thousands of cars into the roads within Mark Center and also of pedestrian traffic. She asked Council to authorize the Transportation Department to conduct a study of how future traffic will flow during peak and non-peak hours and authorize work to be done.

(w) Geoffrey M. Goodale, 493 Naylor Place, president, Brookville-Seminary Valley Civic Association, urged Council to consider requesting VDOT and T&ES to think of alternative solutions that might better serve the goals, including getting efficient traffic into the facility while protecting the Preserve. He said they support the Transportation Commission's recommendations to further analyze options A1 and A2, to instruct VDOT to only consider options that will not harm the Winkler Preserve, to adopt the BRAC Mark Center Advisory Group's guiding principles and urge VDOT to consider them, and request Duke Realty to work on completing the local road improvements as quickly as possible. He requested that Council not adopt the Transportation Commission's recommendation that Council direct VDOT to pursue a design option at Sanger Avenue, providing direct access to I-395, and they ask Council to work with the Congressional delegation to urge the RIF not be put there.

(x) Nancy Jennings, 2115 Marlboro Drive, speaking as president, Seminary Hill Association, Inc., said she would like to have better alternatives to chose from and combinations of measures before deciding on a plan and working on the acquisition of funding. She said the Seminary Hill Association passed a resolution urging the Council to persevere for a solution that improves access to and from I-395 into the BRAC-133 site and Mark Center to minimize impacts on the Seminary Road interchange and the local streets and the City should ask VDOT to explore more alternatives that give access to the Mark Center from I-395, and to explore improving traffic flow on I-395 by adding another lane on I-395 between Seminary Road and Duke Street and widening

Seminary Road exit from the south.

(y) Danny Blum, 1653 B North Van Dorn Street, said there is not a single mention of local residents in the area in the report, and he said the 35 foot high ramps will be in peoples front yards. He encouraged Council to add a sixth recommendation to provide protection to local residents.

(z) Stephanie Booth, 1653 B North Van Dorn Street, said Van Dorn and Parkside of Alexandria are not included in the area to be studied to see what happens. She said she was concerned that there is no mention of local residents and hasn't heard it discussed. She also spoke of the noise from the BRAC-133 site, noting that the City has exempted them from weekend construction regulations.

(aa) Susan D'Amico, 1511-C North Van Dorn Street, said their community in Parkside of Alexandria has windows facing the Army headquarters construction site. She said their concerns relate to human health, quality of life and property values. She said they support the Winkler Preserve but want to make sure there is a perspective on the impact on homeowners and the design on C, D and E and the height of the ramps, and she spoke of the design of the direct access ramp from the HOV lanes that would hug the current Seminary Road bridge.

(bb) Owen Curtis, 5465 Fillmore Avenue, spoke of the City's response to the BRAC environmental assessment in August 2008 and noted that all the parties need to take a broader more comprehensive view of the issues and neighborhoods west of 395 which are to be preserved and protected. Mr. Curtis asked that they not build until a broader review has been accomplished. He said they need to think beyond preserving The Preserve, as the objective is the preservation of the quality of life of the residential and mixed use neighborhoods of the West End, and the City needs to work with the Army to run the access through the Army's site.

(cc) Diane Costello, 5840 Lowell Avenue, spoke of the guiding principles, in particular on protecting The Preserve, and the Transportation Commission took the Winkler Preserve off the table, and the City Manager's memorandum as part of today's docket says to instruct VDOT to eliminate from consideration any access alternatives within their preliminary interchange justification report which would impact the land area of the Winkler Botanical Preserve, and she said that didn't sound like the Winkler Preserve had been taken off the table. She asked if the VDOT proposals cross resource protection areas as designated in the RPA buffer map, and she asked if it was a State mandate that exceptions to the RPA requirements must be heard by the Planning Commission at a public hearing.

(dd) Joanne Lepanto, 4009 North Garland Street, said what matters most is the traffic and she said the impending gridlock from BRAC traffic will have a devastating impact on their daily lives and make a dangerous situation even worse in the case of an emergency. She said none of the VDOT options are adequate, but VDOT appears to be willing to consider other alternatives and the City should pursue it, noting that they



need options to provide direct access to the entire Mark Center site and they need options to provide stacking capacity on-site, and they need options that will keep BRAC and Mark Center traffic out of the Seminary Road interchange and off Alexandria streets. Ms. Lepanto asked Council to explore the Sanger option and Mr. Humberd's option and do not reject option D or other BRAC access options because they will impact The Preserve and leave those options on the table until the VDOT meeting in February.

(ee) Ana Humphrey, 1314 DeWitt Avenue, said she goes to Maury Elementary School and she presented a petition signed by 82 students and teachers regarding saving the Winkler Preserve.

(ff) Lynn Bostain, 5695 Rayburn Avenue, Seminary West Civic Association, said they will have a massive transportation problem due to poor planning. The West End residents five years ago objected to the three left turn lanes off of Seminary onto Beauregard, not because they wanted to halt development, but because they knew that it alone would not solve the transportation problem. She said they don't have years to wait for VDOT to put the new roadways in place. Ms. Bostain said there would now have a major terrorist target located in their residential neighborhood due to the remote inspection facility. She said some of the solutions are direct access off of I-395. She asked Council to consider Seminary Road both east and west of the development, piecemeal solutions are impractical and will not work, and they need to consider rail and Metro service for the future.

Mayor Euille said there needs to have a meeting with Duke Realty, VDOT, City staff and others to talk about the issue in terms of pedestrian and traffic issues and Mark Center Square.

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0, City Council closed the public hearing. The voting was as follows:

Krupicka	"aye"	Donley	"aye"
Pepper	"aye"	Fannon	"aye"
Euille	"aye"	Hughes	absent
	Smedberg	"aye"	

**WHEREUPON**, a motion was made by Councilman Krupicka and seconded by Councilwoman Pepper, that City Council received the final public testimony on the seven direct access ramp alternatives being considered by VDOT for their preliminary IJR analysis and adopted the following five recommendations from the Alexandria Transportation Commission: 1. direct staff to prepare a letter to Duke Realty encouraging Duke Realty to move with all speed to complete the local roadway improvements as approved by Council; 2. request VDOT to retain alternatives A1 and A2 which provide direct access from I-395 to the Department of Defense (DoD) garage;

3. direct VDOT to work with City staff to evaluate additional alternatives to relieve traffic pressures on Seminary Road and to address traffic impacts from BRAC, provided that such alternatives meet the following criteria: A. do not harm the integrity of the Winkler Preserve; B. minimize disruption to all local residents from BRAC-133 traffic as well as from any potential solutions to such traffic; C. take into consideration a broader view of transportation issues in the corridor, specifically by coordinating the study of alternatives with the on-going Beauregard planning effort; and D. take into consideration the guiding principles of the Alexandria's BRAC-133 group when developing alternatives; 4. instruct VDOT to eliminate from consideration any access alternatives within their preliminary interchange justification report which would impact the land area of the Winkler Botanical Preserve; and 5. is incorporated it into 3D above.

In response to a question from City Council, Mr. Duncan Blair, attorney for the Winkler Foundation, said that from an ownership standpoint of what is The Preserve, it is clearly defined as a tract of land with 1,944,125 square feet of land owned by a non-profit. He showed a land records paper showing that it is known as 1100 Mark Center Properties Limited Partnership, parcel F2. He said the documents were given to him yesterday by the Department of Real Estate Assessments.

After discussion and comments, Councilman Krupicka clarified the motion, with the following notations: On items 1 and 2: change the word "direct" to "request," understanding that VDOT has its own powers to be accountable to. Item #3 is amended and replaced with the following language: 3. request VDOT to work with City staff to evaluate additional alternatives to relieve traffic pressures on Seminary Road and to address traffic impacts from BRAC, provided that such alternatives meet the following criteria: A. do not harm the integrity of the Winkler Preserve; B. minimize disruption to all local residents from BRAC-133 traffic as well as from any potential solutions to such traffic; C. take into consideration a broader view of transportation issues in the corridor; and D. take into consideration the guiding principles of the Alexandria's BRAC-133 group when developing alternatives. 4. "instruct" to be changed to "request." Add #5 to read: "look at the Transportation Management Plan (TMP) when developing a final proposal and recommendation on the issues." City staff is directed to take this, submit it as their position as of today, but to give staff the ability to bring back to Council some additional clarification so they can evolve their position as they learn more over time.

There was discussion among Council about directing staff to develop a cover letter to accompany a copy of the motion, with the understanding that the cover letter would be shared with Council before being finalized.

The final motion reads as follows:

City Council received the final public testimony on the seven direct access ramp alternatives being considered by VDOT for their preliminary IJR analysis and adopted the following five recommendations from the Alexandria Transportation Commission: 1. direct staff to prepare a letter to Duke Realty encouraging Duke Realty to move with all

speed to complete the local roadway improvements as approved by Council; 2. request VDOT to retain alternatives A1 and A2 which provide direct access from I-395 to the Department of Defense (DoD) garage; 3. request VDOT to work with City staff to evaluate additional alternatives to relieve traffic pressures on Seminary Road and to address traffic impacts from BRAC, provided that such alternatives meet the following criteria: A. do not harm the integrity of the Winkler Preserve; B. minimize disruption to all local residents from BRAC-133 traffic as well as from any potential solutions to such traffic; C. take into consideration a broader view of transportation issues in the corridor; and D. take into consideration the guiding principles of the Alexandria's BRAC-133 group when developing alternatives; 4. request VDOT to eliminate from consideration any access alternatives within their preliminary interchange justification report which would impact the land area of the Winkler Botanical Preserve; and 5. look at the Transportation Management Plan (TMP) when developing a final proposal and recommendation on the issues. (City staff was directed to draft a cover letter to accompany the motion, with the understanding that before the cover letter is finalized, that it be shared with Council to make sure the points are covered.)

The voting on the motion was as follows:

Krupicka	"aye"	Donley	"aye"
Pepper	"aye"	Fannon	"aye"
Euille	"aye"	Hughes	absent
	Smedberg	"aye"	

## ORDINANCES AND RESOLUTIONS

- Public Hearing, Second Reading and Final Passage of an Ordinance to Amend and Reordain Sections 5-8-21 (Definitions), Section 5-8-22 (Abandoned, Unattended and Immobile Vehicles To Be Removed), Section 5-8-24 (Notice That Vehicle Has Been Impounded), Section 5-8-25 (Repossession of Impounded Vehicles; Towing and Storage Charges), Section 5-8-27 (Sale of Unrepossessed Vehicles; Proceeds of Sale), Section 5-8-28 Disposition of inoperable abandoned vehicles), Section 5-8-29 (Surrender of Certificate of Title, Etc., Where Motor Vehicle Acquired For Demolition; Records To Be Kept By Demolisher) and Section 5-8-30 (Delegation of Law Enforcement Authority) All Of Article C (Disposition of Abandoned, Unattended and Immobile Motor Vehicles) of Chapter 8 (Parking and Traffic Regulations) of Title 5 (Transportation and Environmental Services) of the Alexandria City Code. (#16, 12/8/09) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 2, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 5; 12/12/09, 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. 5;

12/12/09, 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. 5; 12/12/09 and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council closed the public hearing and passed the ordinance on motor vehicles. The voting was as follows:

Smedberg	"aye"	Donley	"aye"
Pepper	"aye"	Fannon	"aye"
Euille	"aye"	Hughes	absent
	Krupicka	"aye"	

The ordinance reads as follows:

#### ORDINANCE NO. 4637

AN ORDINANCE to amend and reordain Section 5-8-21 (DEFINITIONS), Section 5-8-22 (Abandoned, unattended and immobile vehicles to be removed), Section 5-8-24 (Notice that vehicle has been impounded), Section 5-8-25 (Repossession of impounded vehicles; towing and storage charges), Section 5-8-27 (Sale OF unrepossessed vehicles; proceeds of sale), Section 5-8-28 (Disposition of inoperable abandoned vehicles), Section 5-8-29 (Surrender of certificate of title, etc., where motor vehicle acquired for DEMOLITION; records to be kept by demolisher) and Section 5-8-30 (Delegation of law enforcement authority) of Article C (DISPOSITION OF ABANDONED, UNATTENDED AND IMMOBILE MOTOR VEHICLES) of Chapter 8 (PARKING AND TRAFFIC REGULATIONS) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of The City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 5-8-21 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:

Sec. 5-8-21 Definitions.

The following terms shall, for purposes of this article, have the meanings set forth below.

(1) Motor vehicle or vehicle means any motor vehicle, trailer or semitrailer, or any part thereof, as defined in section 46.2-100, Code of Virginia (1950), as amended.

(2) Abandoned motor vehicle means a motor vehicle that:

(a) is left unattended on public property for a period of more than 48 hours in violation of the Code of Virginia (1950), as amended, or this code; or

(b) is left unattended on the shoulder of a primary highway.

(3) Demolisher means any person or entity whose business is to convert motor vehicles into processed scrap or scrap metal or otherwise to wreck or dismantle such vehicles.

(4) Authorized city official means any of the following persons: the chief of police; any sworn member of the police department; the fire marshal; and any deputy fire marshal.

(5) Parking violation notice means a citation issued for the violation of a law relating to the parking of motor vehicles or of any other law relating to motor vehicles for which a parking citation may be issued.

(6) Scrap metal processor means any person who is engaged in the business of processing motor vehicles into scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.

(7) Vehicle removal certificate means a transferable document issued by the Virginia Department of Motor Vehicles for any abandoned motor vehicle that authorizes the removal and destruction of the vehicle.

(8) Department means the Virginia Department of Motor Vehicles.

(9) Commissioner means the Commissioner of the Virginia Department of Motor Vehicles.

Section 2. That Section 5-8-22 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:

Sec. 5-8-22 Abandoned, unattended and immobile vehicles to be removed.

Whenever a motor vehicle:

(a) becomes an abandoned motor vehicle;

(b) is left unattended on a public street or public property and constitutes a

hazard to traffic;

(c) is left unattended for more than 10 days upon public property without the permission of the city;

(d) is left unattended for more than 72 consecutive hours on private property without the permission of the property owner (provided, that in the case of private property normally open to the public for parking, signs are posted on the property which provide reasonable notice that vehicles left on the property for more than 72 consecutive hours without permission will be removed at the vehicle owner's expense);

(e) is left unattended on a public street or public property, or on private property, including a private street and road, but not including property which is owned or occupied as a single family residence, and there are three or more unpaid or otherwise unsettled parking violation notices pending against the vehicle;

(f) is left unattended in a fire lane or within 15 feet of a fire hydrant or an entrance to a fire station; or

(g) is immobilized while in a travel lane of a public street by weather conditions or other emergency situation; the vehicle may, at the direction of an authorized city official, be removed for safekeeping by city personnel, vehicles and equipment, or by a towing service under contract to the city, to the city impoundment yard or another impoundment facility; provided, that a vehicle may be removed from privately-owned property only pursuant to the written authorization of the property owner or, where applicable, an association of owners formed pursuant to chapter 4.1 of title 55 of the Code of Virginia (1950), as amended.

Section 3. That Section 5-8-24 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:

Sec. 5-8-24 Notice that vehicle has been impounded.

(a) The following notice must be provided for impounded abandoned motor vehicles:

(1) The authorized city official, a designee of the official or another city employee designated by the city manager, directing the removal of any vehicle under this article shall initiate with the Department, in a manner prescribed by the Commissioner, a search for the owner and/or lienholder of record of the motor vehicle, requesting the name and address of the owner of record of the motor vehicle and all persons having security interests in the motor vehicle on record with the Department. The Department shall check: (i) its own records, (ii) the records of a nationally recognized crime database, and (iii) records of a nationally recognized motor vehicle title database for owner and lienholder information.

a. If a vehicle has been reported as stolen, the Department shall notify the appropriate law-enforcement agency of that fact.

b. If a vehicle has been found to have been titled in another jurisdiction, the Department shall notify the city of that jurisdiction. In cases of motor vehicles titled in other jurisdictions, the Commissioner shall issue certificates of title on proof satisfactory to the Commissioner that the persons required to be notified by registered or certified mail have received actual notice fully containing the information required by this section.

c. If the Department confirms owner or lienholder information, the Department shall notify the owner, at the last known address of record, and lienholder, at the last known address of record, of the notice of interest in their vehicle, by certified mail, return receipt requested, and advise them to reclaim and remove the vehicle within 15 days, or, if the vehicle is a manufactured home or a mobile home, 120 days, from the date of notice. Such notice, when sent in accordance with these requirements, shall be sufficient regardless of whether or not it was ever received. Following the notice required in this subsection, if the motor vehicle remains unclaimed, the owner and all persons having security interests in the motor vehicle shall have waived all right, title, and interest in the motor vehicle.

d. Whenever a vehicle is shown by the Department's records to be owned by a person who has indicated that he is on active military duty or service, the Department shall notify the city of such information. Any person having an interest in such vehicle under the provisions of this article shall comply with the provisions of the federal Service members Civil Relief Act (50 U.S.C. app. 501 et seq.).

e. If records of the Department contain no address for the owner or no address of any person shown by the Department's records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, the city shall obtain from the Department, in a manner prescribed by the Commissioner, a Vehicle Removal Certificate. The vehicle may then be sold to a licensee or scrap metal processor as defined in Virginia Code § 46.2-1600 (1950), as amended.

(b) The following notice must be provided for all other impounded motor vehicles:

(1) The authorized city official, a designee of the official or another city employee designated by the city manager, directing the removal of any vehicle under this article, shall, within 15 days of the impoundment of the motor vehicle, by registered or certified mail, return receipt requested, provide notice to the owner of record of the impounded vehicle, as shown in records maintained by the Department; provided, that the vehicle has not already been released from the impoundment facility. The notice shall state the following: (i) the year, make, model and registration number of the motor vehicle; (ii) the address where the vehicle is being held; and (iii) that the owner and any

person having a security interest in the vehicle may reclaim the vehicle within 15 days from the date of the notice, after payment of all towing and storage charges resulting from the removal and storage of the vehicle.

(2) If the owner fails or refuses to pay the cost or if his identity or whereabouts is unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any lien of record with the Department against the motor vehicle, the vehicle shall be considered an abandoned motor vehicle and the provisions of subsection (a) apply.

Section 4. That Section 5-8-25 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:

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

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

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

(2) payment of a storage charge of \$30 per day;

(3) payment of a charge of \$70 to cover the administrative costs incurred by the city in impounding the vehicle, in learning the identity of the vehicle owner and the holders of a security interest in the vehicle and in conducting the sale; and

(4) in the case of vehicles identified in section 5-8-22(e), payment of the outstanding parking violation notices for which the vehicle was removed.

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

Section 5. That Section 5-8-27 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:

Sec. 5-8-27 Disposition of unrepossessed vehicles; proceeds of sale.

If a motor vehicle impounded under this article is not repossessed

(1) the city shall obtain from the Department a Vehicle Removal Certificate in a manner prescribed by the Commissioner;



(2) the vehicle may then be sold or transferred to a licensee or a scrap metal processor, as defined in Virginia Code § 46.2-1600 (1950) as amended; or

(3) if the city desires to sell the vehicle at public auction, the city shall post notice for at least 21 days of its intent to auction the motor vehicle with the Department.

a. Postings of intent shall be in an electronic manner prescribed by the Commissioner who shall also ensure that written notice of intent is provided in public locations throughout the Commonwealth of Virginia.

b. If the Department confirms a lien, the city shall notify the lienholder of record, by certified mail, at the address on the certificate of title of the time and place of the proposed sale 10 days prior thereto.

(b) The purchaser of an impounded vehicle at public auction shall take title to the vehicle free of all liens and claims of ownership of others, shall receive a sales receipt, an Abandoned Vehicle receipt and a completed Vehicle Removal Certificate, and shall be entitled to apply to and receive from the Department a certificate of title and a registration card for the vehicle.

(c) The proceeds from the sale of an impounded motor vehicle shall be forwarded to the director of finance who shall pay from the proceeds the towing charge, storage charge and any costs incurred by the city in learning the identity of the vehicle owner and the holders of a security interest in the vehicle and in conducting the sale. The balance of the proceeds shall be held by the director of finance for the owner and paid to the owner upon satisfactory proof of ownership; provided, that the owner makes application for such proceeds within 90 days from the date of sale. If the owner fails to make timely application, the balance of the proceeds shall become the property of the city, and shall be deposited in the city general fund. Any personal property found in an impounded motor vehicle may be sold along with the sale of the vehicle.

Section 6. That Section 5-8-28 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:

Sec. 5-8-28 Disposition of inoperable vehicles.

Notwithstanding any other provisions of this article to the contrary, any inoperable motor vehicle which has been impounded pursuant to this article may be disposed of to a demolisher, for the sole purpose of having the vehicle wrecked, dismantled or demolished, without the title and the notification procedures otherwise required by this article. The demolisher, upon taking custody of such motor vehicle, shall notify the Department of this fact on forms provided by the Department.

Section 7. That Section 5-8-29 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, amended and reordained to

read as follows:

Sec. 5-8-29 Surrender of certificate of title, etc., where motor vehicle acquired for demolition or scrap metal processing; records to be kept by demolisher or scrap metal processor.

(a) No demolisher or scrap metal processor who purchases or otherwise acquires a motor vehicle pursuant to section 5-8-28 for wrecking, dismantling or demolition shall be required to obtain a certificate of title for the motor vehicle in the demolisher's own name. After the motor vehicle has been demolished, processed, or changed so that it physically is no longer a motor vehicle, the demolisher or scrap metal processor shall surrender to the department of motor vehicles, for cancellation, the certificate of title, vehicle removal certificate, properly executed vehicle disposition history, or the sales receipt from a foreign jurisdiction for the vehicle.

(b) A demolisher or scrap metal processor shall keep an accurate and complete record, in accordance with section 46.2-1608, Code of Virginia (1950), as amended, of all motor vehicles purchased or received in the course of business. Demolishers and scrap metal processors shall also collect and verify: (i) the towing company's name and, if applicable, the license number issued to the towing company by the Virginia Board for Towing and Recovery Operators, (ii) one of the ownership or possession documents set out in this section following verification of its accuracy, and (iii) the driver's license of the person delivering the motor vehicle. If the delivering vehicle does not possess a license number issued by the Virginia Board for Towing and Recovery Operators, the license plate number of the vehicle that delivered the motor vehicle or scrap shall also be collected and maintained.

(1) In addition, a photocopy or electronic copy of the appropriate ownership document or a Vehicle Removal Certificate presented by the customer shall be maintained. Ownership documents shall consist of either a motor vehicle title or a sales receipt from a foreign jurisdiction or a vehicle disposition history. These records shall be maintained in a permanent ledger in a manner acceptable to the Department at the place of business or at another readily accessible and secure location within the Commonwealth for at least five years.

(2) If requested by a law-enforcement officer, a licensee shall make available, during regular business hours, a report of all the purchases of motor vehicles. Each report shall include the information set out in this article and be available electronically or in an agreed-upon format. Any person who violates any provision of this chapter or who falsifies any of the information required to be maintained by this article shall be guilty of a Class 3 misdemeanor for the first offense. Any licensee or scrap metal processor who is found guilty of second or subsequent violations shall be guilty of a Class 1 misdemeanor.

(3) If the vehicle identification number has been altered, is missing, or appears to have been otherwise tampered with, the demolisher or scrap metal processor shall

take no further action with regard to the vehicle except to safeguard it in its then-existing condition and shall promptly notify the Department. If the vehicle is a motorcycle, the demolisher or scrap metal processor shall cause to be noted on the title or salvage certificate, certifying on the face of the document, in addition to the above requirements, the frame number of the motorcycle and motor number, if available.

Section 8. That Section 5-8-30 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:

Sec. 5-8-30 Delegation of law enforcement authority.

Pursuant to section 27-34.2:1 of the Code of Virginia, 1950, as amended, the fire marshal and the deputy fire marshals are delegated, and shall possess, the law enforcement powers that are necessary to enforce this article and article D of this chapter.

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

6. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend City Code Section 2-4-110 To Replace The High School Student Member of the Environmental Policy Commission With a Representative From the Alexandria Business Community. (#17, 12/8/09) **[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. 6; 12/12/09, 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. 6; 12/12/09 and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice Mayor Donley and carried 6-0 by roll-call vote, City Council closed the public hearing and passed the ordinance to replace the high school student member of the Environmental Policy Commission with a representative from the Alexandria business community. The voting was as follows:

Smedberg	"aye"	Fannon	"aye"
Donley	"aye"	Hughes	absent
Euille	"aye"	Krupicka	"aye"
	Pepper	"aye"	

The ordinance reads as follows:

ORDINANCE NO. 4638

AN ORDINANCE to amend and reordain Section 2-4-110 (CREATION, COMPOSITION AND ORGANIZATION), Article M (ENVIRONMENTAL POLICY COMMISSION), Chapter 4 (COMMITTEES, BOARDS AND COMMISSIONS), Title 2 (GENERAL GOVERNMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 2-4-110 (CREATION, COMPOSITION AND ORGANIZATION), Article M (ENVIRONMENTAL POLICY COMMISSION), Chapter 4 (COMMITTEES, BOARDS AND COMMISSIONS) of Title 2 (GENERAL GOVERNMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained by the addition of the following new sections to read as follows:

ARTICLE M ENVIRONMENTAL POLICY COMMISSION

Sec. 2-4-110 Creation, composition and organization.

(a) There is hereby established a standing commission known as the Environmental Policy Commission.

(b) The commission shall consist of 13 members to be appointed by the city council. The composition of the commission shall be as follows:

(1) one member with experience in federal or state environmental statutes, regulations and procedures (preferably an attorney);

(2) one member from the field of urban planning;

(3) five members from the field of environmental sciences (e.g., environmental/sanitary engineering, ecology, geology, botany, hydrology, chemistry;)

(4) one member from the Alexandria business community ; and

(5) five citizen-at-large members.

(c) Members of the commission shall be appointed in the manner prescribed in title 2, chapter 4, article A of this code. The members shall serve for a term of two years.

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

7. Public Hearing, Second Reading and Final Passage of an Ordinance to Implement the Text Amendment to the Zoning Ordinance Regarding Public Disclosure in the Zoning Approval Process, As Recommended By The Planning Commission on November 5 and Approved By City Council on November 21. (#18, 12/8/09) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 2, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 7; 12/12/09, 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. 7; 12/12/09, 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. 7; 12/12/09 and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried 6-0 by roll-call vote, City Council closed the public hearing and passed the ordinance to implement the text amendment regarding public disclosure in the Zoning approval process. The voting was as follows:

Krupicka	"aye"	Donley	"aye"
Smedberg	"aye"	Fannon	"aye"
Euille	"aye"	Hughes	absent
	Pepper	"aye"	

The ordinance reads as follows:

#### ORDINANCE NO. 4639

AN ORDINANCE to add a new Section 11-350 (REQUIRED APPLICATION DISCLOSURES), to Division A (ADMINISTRATION AND ENFORCEMENT OF ORDINANCE), Article XI (DEVELOPMENT APPROVALS AND PROCEDURES), all of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2009-0007.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2009-0007, the planning commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on November 5, 2009 of a text amendment to the Zoning Ordinance to require public disclosure of parties having an ownership interest in an applicant or the real estate which is the subject of an application, which recommendation was approved by the City Council at public hearing on November 21, 2009;

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

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

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 11-350 of the Zoning Ordinance be, and the same hereby is, amended by inserting new language, as shown:

Sec. 11-350 Required Application Disclosures.

11-351 *Definitions.* As used in this section 11-350:

- (A) "Business or financial relationship" means a relationship that a member of a City approving body or any member of his immediate household has, or has had within the 12-month period prior to a hearing on an application, with the applicant in the case, or with a party with an ownership interest in the applicant or the property that is the subject of the application. This relationship may be:
  - (1) a direct one;
  - (2) by way of an ownership entity in which the member or a member of his immediate household is a partner, employee, agent or attorney;
  - (3) through a partner of the member or a member of his immediate household;
  - (4) through a corporation in which any of them is an officer, director, employee, agent or attorney or holds 10 percent or more of the outstanding bonds or shares of stock of a particular class. In the case of a condominium, this threshold shall apply only if the applicant is the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
  - (5) not as an ordinary customer or depositor relationship with a professional or other service provider, retail establishment, public utility or bank, which relationship shall not be considered a business or financial relationship.
  - (6) created by the receipt by the member, or by a person, firm, corporation or committee on behalf of the member, of any gift or donation having a value of more than \$100, singularly or in the aggregate, during the 12-month period prior to the hearing on the application from the applicant.
  
- (B) "City approving body" means City Council, the Planning Commission, the Board of Zoning Appeals, and the Boards

of Architectural Review.

- (C) "Application" means any application for any land use or land development approval submitted pursuant to this ordinance which will be considered by a City approving body.
- (D) "Ownership interest" in the applicant or the real estate that is the subject of the application means those parties required to be identified under section 11-406 (A) of this ordinance.
- (E) "Immediate household" means (i) a spouse or life partner and (ii) any other person residing in the same household as the member, who is a dependent of the member or of whom the member is a dependent. "Dependent" means a son, daughter, father, mother, brother, sister or other person, whether or not related by blood or marriage, if such person receives from the member, or provides to the member, more than one-half of his financial support.

11-352 *Requirements.*

- (A) Each application shall identify any party having an ownership interest in the applicant or the real estate that is the subject of the application.
- (B) A party having an ownership interest in the applicant or the real estate that is the subject of an application shall make full public disclosure of any business or financial relationship that the party has at the time of the application, or has had within the 12-month period prior to the submission of the application, with any member of a City approving body.
- (C) A party acquiring an ownership interest in the applicant or the real estate that is the subject of any application shall have an affirmative duty to make full public disclosure of that as soon as is reasonably possible after such acquisition, and must be disclosed prior to any public hearing on the application.
- (D) Any disclosure required by this section shall be in the manner and on the forms provided by the director.
- (E) No disclosure shall be required when the applicant is the federal government, a state, or a political subdivision of the Commonwealth of Virginia.

*11-353 Voting.* Any member of a City approving body who has or has had a business or financial relationship subject to the disclosure requirements of section 11-350 shall be ineligible to vote or participate in any way in consideration of the application. A member of a City approving body who has received a campaign contribution is eligible to vote or participate in consideration of the application if the contribution has been disclosed as required by law.

*11-354 Violations.* Any person who knowingly and willfully violates the provisions of this section 11-350 shall be guilty of a Class 1 misdemeanor.

*11-355 Preemption.* The provisions of this section preempt any conflicting provisions of law, general or special, except that any provision of the State and Local Government Conflict of Interests Act, (§ 2.2-3100 et seq.) of the Code of Virginia that is more stringent than the provisions of this section 11-350 shall not be preempted.

*11-356 Validity of Actions of Approving Body.* In the event of a violation of this section is discovered after a vote or decision by an approving body, the vote or decision of that body shall remain a valid action thereof provided that 1) the approving body had a quorum without counting the member who should have, but failed to, recuse himself under this section; and 2) there were sufficient votes under the applicable bylaws or rules of procedure for the approving body for it to take the action decided upon without counting the vote of an member who should have, but failed to, recuse himself under this section.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 3. That Section 11-350, as created pursuant to Section 1 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

8. Public Hearing, Second Reading and Final Passage of an Ordinance to Extend the Date of the 2009 Annual Review of the Taxicab Industry, As Required by City Code Section 9-12-31, From December 15, 2009 to June 15, 2010 To Allow Time For Staff To Consider Industry Input on Dispatch Requirements and the Driver Transfer Process. (#19, 12/8/09) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 2, 2009, is on file



in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 8; 12/12/09, 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; 12/12/09, 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; 12/12/09 and is incorporated as part of this record by reference.)

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

(a) Amy Slack, 2307 E. Randolph Avenue, said she would like to know how far Council is willing to put itself on the line and how far does it want to tolerate the feedback it has experienced in the past and will experience again.

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council closed the public hearing and passed the ordinance to extend the date of the 2009 annual review of the taxicab industry to allow time for staff to consider industry input on dispatch requirements and the driver transfer process. The voting was as follows:

Krupicka	"aye"	Donley	"aye"
Pepper	"aye"	Fannon	"aye"
Euille	"aye"	Hughes	absent
	Smedberg	"aye"	

The ordinance reads as follows:

#### ORDINANCE NO. 4640

AN ORDINANCE authorizing the postponement of certain matters required by Section 9-12-31 of The Code of the City of Alexandria, Virginia, 1981, as amended.

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

Section 1. The City Council of the City of Alexandria hereby temporarily suspends the provisions of Section 9-12-31 (ANNUAL REVIEW OF THE TAXI INDUSTRY), Division 2 (CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY), Article A (TAXICABS), Chapter 12 (TAXICABS AND OTHER VEHICLES FOR HIRE) of Title 9 (LICENSING AND REGULATION) related to the dates for conducting the annual review of the City's taxicab industry and related actions related thereto by the Traffic & Parking Board and the City Manager pursuant to Section

9-12-31, subject to the specific terms of this Ordinance, as follows:

The review of the taxicab industry for 2009 required by City Code Section 9-12-31(a) that would normally have taken place between September 1 and November 15 of 2009, including, without limitation, the public hearing, shall take place between March 1 and May 15, 2010.

The Traffic & Parking Board's report to the City Manager required by City Code Section 9-12-31(f) shall be transmitted to the City Manager no later than May 15, 2010.

The remaining approvals, orders and reports required by City Code Section 9-12-31, including, without limitation, the City Manager's order, findings and conclusions required by City Code Section 9-12-31(h), shall be completed no later than June 15, 2010.

This ordinance does not amend the City Code in any way, but merely suspends the applicable Code Section for the limited purpose of allowing the later dates for the matters previously referenced and the review for 2010 shall take forth in the manner and on the dates set forth in the City Code, unless changed by further action of City Council.

Apart from the postponements authorized for 2009 by this ordinance, the Traffic & Parking Board and the City Manager shall in all other respects comply with the terms of City Code Section 9-12-31.

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

9. Public Hearing, Second Reading and Final Passage of an Ordinance Implementing a Zoning Ordinance Text Amendment For Administrative Approval of Certain Signs in the Historic Districts, as Recommended By the Planning Commission on November 5 and Approved By City Council on November 21, 2009. (#20, 12/8/09) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 2, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 9; 12/12/09, 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. 9; 12/12/09, 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. 9; 12/12/09 and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilman Smedberg and carried 6-0 by roll-call vote, City Council closed the public hearing and passed the ordinance implementing a Zoning Ordinance text amendment for administrative approval of certain signs in the historic districts. The voting was as follows:

Pepper	"aye"	Donley	"aye"
Smedberg	"aye"	Fannon	"aye"
Euille	"aye"	Hughes	absent
	Krupicka	"aye"	

The ordinance reads as follows:

#### ORDINANCE NO. 4641

AN ORDINANCE to amend and reordain Section 9-301 (REVIEW REQUIRED), Article IX (SIGNS, MARQUEES AND AWNINGS), and add a new Section 10-113 (ADMINISTRATIVE APPROVAL OF CERTAIN PERMITS) and a new Section 10-213 (ADMINISTRATIVE APPROVAL OF CERTAIN PERMITS), both of Article X (HISTORIC DISTRICTS AND BUILDINGS), all of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2009-0005.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2009-0005, the planning commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on November 5, 2009 of a text amendment to the Zoning Ordinance to allow administrative approval of certain signs in the Historic Districts, which recommendation was approved by the City Council at public hearing on November 21, 2009;
2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;
3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 9-301 of the Zoning Ordinance be, and the same hereby is, amended, by adding new language as shown:

Sec. 9-301 Review Required

(B) *Exemptions.* The following signs shall not be subject to the requirement of section 9-301(A):

(6) Signs for which administrative approval is available pursuant to sections 10-113 and 10-213.

Section 2. That Section 10-113 of the Zoning Ordinance be, and the same hereby is, amended by inserting new language, as shown:

Sec. 10-113 Administrative Approval Of Certain Permits. The director may review and approve applications for those signs which comply with the specific criteria and standards outlined and formally approved by the board.

Section 3. That Section 10-213 of the Zoning Ordinance be, and the same hereby is, amended by inserting new language, as shown:

Sec. 10-213 Administrative approval of certain permits. The director may review and approve applications for those signs which comply with the specific criteria and standards outlined and formally approved by the board.

Section 4. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 5. That Section 9-301, as amended pursuant to Section 1 of this ordinance, Section 10-113, as amended pursuant to Section 2 of the ordinance and Section 10-213, as amended by Section 3 of this ordinance, be, and the same hereby are, reordained as parts of the City of Alexandria Zoning Ordinance.

Section 6. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which are on such date pending before any city department, agency or board, or before city council, shall apply to all such applications which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

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

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

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

None.

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

**OTHER**

10. Consideration of City Council Schedule.

This item was removed from the docket.

**EXECUTIVE SESSION**

11. Consideration of Convening an Executive Session Closed to the Public to Discuss the Potential Disposition of Publicly Held Real Property.

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice Mayor Donley and carried unanimously, at 2:10 p.m., City Council convened in executive session, pursuant to Section 2.2-3711(a)(3) of the *Code of Virginia* for the purpose of discussion of the potential disposition of publicly held real estate. The voting was as follows:

Smedberg	"aye"	Fannon	"aye"
Donley	"aye"	Hughes	absent
Euille	"aye"	Krupicka	"aye"
	Pepper	"aye"	

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Councilwoman Pepper and carried unanimously, at 2:30 p.m., City Council reconvened the meeting. The voting was as follows:

Smedberg	"aye"	Donley	"aye"
Pepper	"aye"	Fannon	"aye"
Euille	"aye"	Hughes	absent
	Krupicka	"aye"	

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the resolution pertaining to the Executive Session. The voting was as follows:

Smedberg	"aye"	Donley	"aye"
Pepper	"aye"	Fannon	"aye"
Euille	"aye"	Hughes	absent
	Krupicka	"aye"	

The resolution reads as follows:

RESOLUTION NO. 2376

WHEREAS, the Alexandria City Council has this 12th day of December 2009, recessed into executive session pursuant to a motion made and adopted in accordance with the Virginia Freedom of Information Act; and

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

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

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**THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED**, upon motion by Councilman Smedberg, seconded by Councilwoman Pepper and carried unanimously, City Council adjourned the public hearing meeting of December 12, 2009 at 2:31 p.m. The voting was as follows:

Smedberg	"aye"	Donley	"aye"
Pepper	"aye"	Fannon	"aye"
Euille	"aye"	Hughes	absent
	Krupicka	"aye"	

APPROVED BY:

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WILLIAM D. EUILLE                      MAYOR

ATTEST:

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Jacqueline M. Henderson  
City Clerk and Clerk of Council