

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

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

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. Spera, Deputy City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Ms. Blackford, Communications Officer, City Manager's Office; Mr. Gates, Assistant City Manager; Police Lt. Hayes; Mr. Baier, Director, Transportation and Environmental Services; Mr. Tran, Office of Environmental Quality; Mr. Blakeley, Deputy Director, Recreation, Parks and Cultural Activities; Ms. Hamer, Director, Planning and Zoning; Ms. Wright, Planning and Zoning; Ms. Ryan, Planning and Zoning; Ms. Escher, Planning and Zoning; Mr. Randall, Planning and Zoning; Fire Chief Thiel; Mr. Catlett, Director, Office of Building and Fire Code Administration; Mr. Hunt, Office of Building and Fire Code Administration; Mr. Gordon, Director of Procurement, Office of Finance; and Mr. Lloyd.

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

OPENING

1. Calling the Roll.

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

2. Public Discussion Period.

(a) Alice Cave, 3736 Gunston Road, resident of Parkfairfax and secretary of the board of directors of Parkfairfax, said the board of directors passed a resolution on June 25 voicing strong opposition to the I-95/395 HOTLanes project, and she spoke of the lawsuit filed by Arlington County. She said the residents of Parkfairfax urge the Council to pass a resolution formally opposing the HOTLanes project and to become a supporting party in the lawsuit filed by the Arlington County Board.

(b) Converse West, 200 N. Pickett Street, #704, spoke of the HOTLanes suit filed by Arlington County. He said his nephew also filed a suit on the HOTLanes project and he spoke of his nephew's activism and joining the suit. Mr. West said he hoped that Alexandria will join with Arlington in pursuing the matter. Mr. West welcomed the new Council.

(c) Alex Luchenister, 1240 Martha Custis Drive, said he is a resident of Parkfairfax and spoke on the HOTLanes project and suit, noting that the project is flawed and asked the City to join in the lawsuit.

(d) Gary Carr, 216 Aspen Street, spoke of the restoration of the running tracks at Frances Hammond and George Washington Middle Schools, noting that it makes good economic sense and is a good investment.

(e) Greg Cota, 1142 Valley Drive, a Parkfairfax resident, spoke on the HOTLanes project and asked the City to join in the lawsuit with Arlington County.

(f) Dino Drudi, 315 N. West Street, spoke about previously asking Council to use the City's rainy day fund and asked Council to reconsider and tap into the rainy day fund, to reduce property taxes, fund social needs and restore the King Street trolley hours to full operation. Mr. Drudi also spoke to services for illegal immigrants and said he estimates that the City spends \$13 million a year on illegal immigrants. He thanked the Mayor and Council for its attention to traffic signals, traffic lights and graffiti on the blue and yellow lines.

(g) Caroline Hill, 219A N. West Street, spoke of a dumpster location for a six unit condo building next to her house, in the middle of the block, and which would be very visible and is in between three privately owned residential lots on the second block of North West Street. Ms. Hill asked the City to request the owner to move the dumpster to another area. She noted that they have had numerous on-site meetings with Mr. Webb, Mr. Baier and Mr. Leiberg.

Director of Transportation and Environmental Services Baier responded to questions of Council, noting that they have asked the owner to put six individual cans out and offered the apartment building a residential services and to remove the dumpster.

(h) Jim Hurysz, 2863 S. Abington Street, Arlington, asked Council to re-evaluate the way it does planning development and redevelopment. He said the growth industry in Alexandria are the auto dealerships. He also spoke to the devastation HOTLanes can provide, noting that he wrote a letter to Transportation Secretary Pierce Homer about the HOTLanes in Delaware.

(i) Jack Sullivan, 4300 Ivanhoe Place, speaking on behalf of the Seminary Hill Association, said Seminary Hill passed a resolution asking Council to bring legal action against the proposed HOTLanes on I-95/395 and said the City should use its

best judgement and if an independent legal action seems a better option, it should do it soon.

(j) Annabelle Fisher, 5001 Seminary Road, asked Police Chief Cook to put the daily police crime reports back on the City's website. She asked the Police to issue tickets to bicyclists who do not obey the law and she noted that the streets in Alexandria are not set up for bicyclists. Ms. Fisher spoke to departments giving citizens one copy of a report that is over 10 pages and to not charge \$.60 a copy like is done by the Department of Planning and Zoning.

There was discussion among Council on the HOTLanes project and Mr. Spera, Deputy City Attorney, reviewed the City's work and what is happening with the lawsuit, noting that they will look at all the parties responses before a decision is made.

After discussion, Mayor Euille noted that this would be discussed in a work session at 5:30 p.m. on Tuesday, October 13.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

**ACTION CONSENT CALENDAR (3-5)
Planning Commission**

- 3. SPECIAL USE PERMIT #2009-0030
1118 KING STREET
BISTRO LAFAYETTE RESTAURANT
Public Hearing and Consideration of a request for an amendment to allow live entertainment and to extend the hours of operation at an existing restaurant; zoned KR/King Street Retail. Applicant: Bistro Lafayette I.K. M., LLC., by Marie Paul Koumtakoun

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 12, 2009 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 9/12/09, and is incorporated as part of this record by reference.)

- 4. SPECIAL USE PERMIT #2009-0035
506 NORTH HENRY STREET
SHANGHAI PEKING
Public Hearing and Consideration of a request for a change of ownership and for amendments to add seating and to allow alcohol sales at an existing restaurant; zoned CRMU-H/Commercial Residential Mixed Use-High. Applicant: Mei Duan Lin

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 12, 2009 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 9/12/09, and is incorporated as part of this record by reference.)

- 5. SPECIAL USE PERMIT #2009-0039
1019 KING STREET
KING THAI KITCHEN d/b/a SAM PHAO
Public Hearing and Consideration of a request to add delivery service and to remove a condition related to parking in an existing special use permit; zoned KR/King Street Retail. Applicant: King Thai Kitchen, Inc.

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 12, 2009 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 9/12/09, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

Councilman Fannon noted that he has a business interest with items #3 and 5 but he would participate in the voting.

WHEREUPON, upon motion by Vice Mayor Donley, seconded by Councilwoman Pepper and carried unanimously, City Council adopted the consent calendar, as follows:

- 3. City Council approved the Planning Commission recommendation.
- 4. City Council approved the Planning Commission recommendation.
- 5. City Council approved the Planning Commission recommendation.

Councilman Krupicka asked that the policy on the trash cans and street trees be brought back to Council, as it needs to be very deligent and careful on how much it charges new businesses with thoughts from staff on fees.

The voting was as follows:

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

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

None.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

6. DEVELOPMENT SPECIAL USE PERMIT #2009-0003
4600-4604 EISENHOWER AVENUE
RESTAURANT DEPOT

Public Hearing and Consideration of a request for a development special use permit, with site plan and a modification, to construct and operate a wholesale warehouse; zoned OCM-100/Office Commercial Medium -100. Applicant: JMDH Real Estate of Alexandria, IL, LLC by Harry P. Hart.

PLANNING COMMISSION ACTION: Recommend Approval w/ amendments
6-0

(A copy of the Planning Commission report dated September 12, 2009 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 9/12/09, and is incorporated as part of this record by reference.)

Planner Eischer made a presentation of the report and responded to questions of Council.

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

(a) Harry Hart, 307 N. Washington Street, attorney representing the applicant, spoke in favor of the request.

(b) Charles Euriphides, 434 N. St. Asaph Street, owner of the Royal Restaurant, spoke in favor of the request.

(c) Kathleen Burns, 1036 N. Pelham, vice president, West End Business Association, spoke in favor of the request.

(d) Andres Domeyko, 1312 Kingston Avenue, board president, Eisenhower Partnership, spoke in favor of the request and said they hoped there would be no more interim uses by moving forward with the Eisenhower West Small Area Plan now.

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

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

WHEREUPON, upon motion by Vice Mayor Donley, seconded by Councilwoman Pepper and carried unanimously, City Council approved the Planning Commission recommendation, with the following amendments: removal of condition #1 relating to the 25-year sunset clause, and to amend condition #4 to read: public parks, trails and/or recreation projects in Eisenhower Valley or Park District III. The voting was as follows:

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

ORDINANCES AND RESOLUTIONS

7. Public Hearing, Second Reading and Final Passage of an Ordinance to Prohibit the Shooting of an Arrow Upon the Property of Another Without Permission From the Owner or Tenant of the Property. (#13, 9/08/09) **[ROLL-CALL VOTE]**

(A copy of the City Attorney's memorandum dated July 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; 9/12/09, 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; 9/12/09, 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; 9/12/09 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the ordinance to prohibit the shooting of an arrow upon the property of another without permission from the owner or tenant of the property. 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. 4613

AN ORDINANCE to amend Section 13-2-7 (prohibiting shooting of compound bows, crossbows, longbows and recurve bows) of Article A (GENERAL PROVISIONS), Chapter 2 (WEAPONS) of Title 13 (MISCELLANEOUS OFFENSES) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the General Assembly of the Commonwealth of Virginia granted to any locality the right to prohibit the shooting of an arrow from a bow in a manner that can be reasonably expected to result in the impact of the arrow upon the property of another without permission from the owner or tenant of such property. Va. Code § 15.2-916 (1950 as amended).

Section 2. That Section 13-2-7 of the Code of the City of Alexandria, Virginia, 1981 as amended, be, and the same is hereby adopted to read as follows:

Sec. 13-2-7 Prohibiting shooting of compound bows, crossbows, longbows and recurve bows.

It shall be unlawful for any person to shoot an arrow from a bow in a manner that can be reasonably expected to result in the impact of the arrow upon the property of another without permission from the owner or tenant of such property. Any person violating this section shall be guilty of a Class 4 misdemeanor.

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

8. Public Hearing, Second Reading and Final Passage of an Ordinance to Change the Membership of the Alexandria Commission on Aging. (#14, 9/08/09)
[ROLL-CALL VOTE]

(A copy of the City Attorney's memorandum dated September 8, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 8; 9/12/09, 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; 9/12/09, 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; 9/12/09 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the

ordinance to change the membership of the Alexandria Commission on Aging. 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. 4614

AN ORDINANCE to amend and reordain Section 12-9-12 (Composition; appointment; terms and compensation of members; filling vacancies; officers) of Article B (ALEXANDRIA COMMISSION ON AGING) of Chapter 9 (AGING), Title 12 (EDUCATION, SOCIAL SERVICES AND WELFARE) of the Code of The City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 12-9-12 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

The commission shall consist of 21 members appointed at large by the city council to terms of three years each. Any vacancy may be filled by the council for the unexpired portion of a term. Eleven members of the commission shall be 60 years of age or older, including minority individuals. Of the remaining 10 members, ~~five~~ four shall be citizens at large, one shall be a representative of older persons, one shall be a representative of a health care provider organization, one shall be a representative of a supportive service provider, one shall be an individual with leadership experience in a volunteer organization, one shall be a member of the Alexandria Commission for Women and one shall be a local elected official, or his or her designee. A chairperson, vice chairperson and secretary shall be chosen annually by a two-thirds vote of the commission members present. Members shall serve without compensation but may receive such reimbursement for expenses as the council may from time to time allow.

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 to Amend and Reordain Section 6-1-1.1 (Hunting Prohibited in an Area Adjacent to Public Parks and Playgrounds) of the Alexandria City Code. (#15, 9/08/09)
[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. 9; 9/12/09, 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. 9; 9/12/09 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the ordinance to amend and reordain Sections 6-1-1.1, hunting prohibited in an area adjacent to public parks and playgrounds of the Alexandria City Code. 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. 4615

AN ORDINANCE to amend and reordain Section 6-1-1.1 (Same--hunting prohibited in adjacent area) of Chapter 1 (GENERAL PROVISIONS), Title 6 (PARKS, RECREATION AND CULTURAL ACTIVITIES) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 6-1-1.1 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

It shall be unlawful for any person, within 100 yards of any property line of any public park or playground in the city, to discharge or to hunt with any firearm. ~~It shall also be unlawful for any person to traverse any area within 100 yards of any property line of any public park or playground in the city while in possession of a loaded firearm.~~ Any person violating this section shall be guilty of a class 4 misdemeanor.

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

10. Public Hearing, Second Reading and Final Passage of an Ordinance to Repeal Section 13-2-4 (Carrying Loaded Firearms) of the Alexandria City Code. (#16,

9/08/09) [ROLL-CALL VOTE]

(A copy of the City Attorney's memorandum dated September 8, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 10; 9/12/09, 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. 10; 9/12/09, 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. 10; 9/12/09 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the ordinance to repeal Section 13-2-4, carrying loaded firearms of the Alexandria City Code. 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. 4616

AN ORDINANCE to repeal Section. 13-2-4 (Carrying loaded firearms) of Chapter 2 (WEAPONS), Title 13 (MISCELLANEOUS OFFENSES) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. Section 13-2-4 currently reads as follows:

It shall be unlawful for any unauthorized person to carry a loaded firearm in any public place.

Section 2. That Section 13-2-4 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is repealed.

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

11. Public Hearing, Second Reading and Final Passage of an Ordinance to Adopt Master Plan Amendment No. 2008-0006 to Amend the Master Plan of the Eisenhower Small Area Plan to Allow For Increased Height Limits on Block 20. (#17, 9/08/09) **[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. 11; 9/12/09, 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. 11; 9/12/09 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the ordinance to adopt master plan amendment No. 2008-0006 to amend the Master Plan of the Eisenhower Small Area Plan to allow for increased height limits on block 20. 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. 4617

AN ORDINANCE to amend and reordain the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia, by adopting and incorporating therein the amendment heretofore approved by city council to such master plan as Master Plan Amendment No. 2008-0006 and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendment.

WHEREAS, the City Council of the City of Alexandria finds and determines that:

1. In Master Plan Amendment No. 2008-0006, the Planning Commission approved an application to amend the Eisenhower East Small Area Plan Chapter of the 1992 Master Plan (2008 ed.) of the City of Alexandria, to increase height for Block 20, from a maximum of 200 feet to a maximum of 220 feet, for the project approved as DSUP No. 2007-0017.

2. The said amendment has heretofore been approved by the planning commission, and city council with an amendment, after full opportunity for comment and

public hearing.

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 the Eisenhower East Small Area Plan Chapter of the 1992 Master Plan (2008 ed.) of the City of Alexandria, be, and the same hereby is, amended by changing the maximum building height for Block 20 as delineated on Figure 4-9 of the Eisenhower East Small Area Plan from a maximum height of 200 feet to a maximum height of 220 feet, for the property at 2200 Mill Road, Tax and Zoning Map No. 078.02-01.05, and approved as part of DSUP No. 2007-0017.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing master plan amendment, as part of the Eisenhower East Small Area Plan Chapter of the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia.

Section 3. That all provisions of the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia, as may be inconsistent with the provisions of this ordinance be, and same hereby are, repealed.

Section 4. That the 1992 Master Plan (2008 ed.) of the City of Alexandria, as amended by this ordinance, be, and the same hereby is, reordained as the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia.

Section 5. That the city clerk shall transmit a duly certified copy of this ordinance to the Clerk of the Circuit Court of the City of Alexandria, Virginia, and that the said Clerk of the Circuit Court shall file same among the court records.

Section 6. That this ordinance shall become effective upon the date and at the time of its final passage.

12. Public Hearing, Second Reading and Final Passage of an Ordinance to Adopt Master Plan Amendment No. 2009-0001 of the Urban Forestry Master Plan as a Chapter of the Master Plan. (#18, 9/08/09) **[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. 12; 9/12/09, 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. 12; 9/12/09 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the ordinance to adopt master plan amendment No. 2009-0001 of the Urban Forestry Master Plan as a Chapter of the Master Plan. 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. 4618

AN ORDINANCE to amend and reordain the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia, by adopting and incorporating therein the amendment heretofore approved by city council to such master plan as Master Plan Amendment No. 2009-0001, and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendment.

WHEREAS, the City Council of the City of Alexandria finds and determines that:

1. In Master Plan Amendment No. 2009-0001, the planning commission, on its own motion, initiated a comprehensive amendment to the 1992 Master Plan (2008 ed.) of the City of Alexandria, by adopting the Urban Forestry Master Plan as a chapter of said Master Plan.
2. The said amendment has heretofore been approved by the planning commission and city council after full opportunity for comment and public hearing.
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 the Urban Forestry Master Plan, attached hereto and incorporated fully herein by reference, be, and the same hereby is, adopted as chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia.

Section 2. That all provisions of the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia, as may be inconsistent with the provisions of Section 1 of this ordinance be, and same hereby are, repealed.

Section 3. That the director of planning and zoning be, and hereby is,

directed to record the foregoing master plan amendment, as part of 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia.

Section 4. That the 1992 Master Plan (2008 ed.) of the City of Alexandria, as amended by this ordinance, be, and the same hereby is, reordained as the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia.

Section 5. That the city clerk shall transmit a duly certified copy of this ordinance to the Clerk of the Circuit Court of the City of Alexandria, Virginia, and that the said Clerk of the Circuit Court shall file same among the court records.

Section 6. That this ordinance shall become effective upon the date and at the time of its final passage.

13. Public Hearing, Second Reading and Final Passage of an Ordinance to Establish and Maintain an Encroachment For Outdoor Restaurant Seating at 315 Madison Street. (#19, 9/08/09) **[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. 13; 9/12/09, 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. 13; 9/12/09 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the ordinance to establish and maintain an encroachment for outdoor restaurant seating at 315 Madison Street. 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. 4619

AN ORDINANCE authorizing the owner of 315 Madison Street to establish and maintain an encroachment for outdoor restaurant seating at 315 Madison Street, in the City of Alexandria, Virginia.

WHEREAS, Mehran Nayeri ("Owner") is the Owner of the property located at

315 Madison Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain outdoor restaurant seating which will encroach into the public sidewalk right-of-way at 315 Madison Street; and

WHEREAS, the public sidewalk right-of-way at that point at 315 Madison Street will not be significantly impaired by this encroachment; and

WHEREAS, this encroachment has been approved by the Planning Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owner be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 315 Madison Street, in the City of Alexandria, said encroachment consisting of outdoor restaurant seating, as generally shown on the diagram attached hereto, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Owner of liability for any negligence on his part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Owner maintaining, at all times and at his own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	\$1,000,000 each occurrence \$1,000,000 aggregate
Property Damage:	\$1,000,000 each occurrence \$1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Owner as named insureds and shall provide for the indemnification of the City of Alexandria and Owner against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment, and demands, suits and all costs related thereto, including attorney fees. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary

notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Owner shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Owner. Nothing in this section shall relieve Owner of his obligations and undertakings required under this ordinance.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall in addition be subject to and conditioned upon the following terms:

- A. Outdoor seating is permitted subject to a seating layout plan that must be reviewed and approved by the Director of the Department of Planning & Zoning. Owner shall ensure that pedestrian access is provided past the outdoor seating and shall clean and wash the seating area at the close of each day of operation.
- B. In the event the City shall, in the future, have need for the area of the encroachment, the Owner shall remove any structure or projection that encroaches into the public right-of-way, upon notification by the City.
- C. Neither the City nor any private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment.
- D. Owner shall place and maintain landscape planters and/or containers in the outdoor dining area, to the satisfaction of the Director of the Department of Planning & Zoning and the Director of Recreation Parks & Cultural Activities. Said planters or containers shall not obstruct pedestrian access and shall not drain directly onto the sidewalk.
- E. Owner shall abide by the regulations of the King Street Outdoor Dining Program regarding the design and maintenance of the outdoor seating area.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

Section 5. That the authorization herein granted to establish and maintain

the encroachment shall be subject to Owner's maintaining the area of the encroachment at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 6. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

Section 7. That the authorization herein granted to establish and maintain the encroachment shall be terminated whenever the City of Alexandria desires to use the affected public right-of-way for any purpose whatsoever and, by written notification, demands from Owner the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owner without cost to the city. If Owner cannot be found, or shall fail or neglect to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of Owner, and shall not be liable to Owner for any loss or damage to the structure of the encroachment or personal property within the encroachment area, caused by the removal.

Section 8. The term "Owner" shall be deemed to include Mehran Nayeri, Nayeri LLC, a La Lucia, or any corporation or entity in which Mehran Nayeri has a controlling interest, and any successors in interest.

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

14. Public Hearing, Second Reading and Final Passage of an Ordinance to Establish and Maintain an Encroachment For a Stairway and Landscape Planter at 532 N. Washington Street. (#20, 9/08/09) **[ROLL-CALL VOTE]**

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 9/12/09, 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. 14; 9/12/09 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the ordinance to establish and maintain an encroachment for a stairway and landscape planter at 532 N. Washington Street. 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. 4620

AN ORDINANCE authorizing North Parkway, L.L.C., and its successors in interest, to establish and maintain an encroachment for a stairway and landscape planter wall into the public sidewalk right-of-way at 532 North Washington Street, in the City of Alexandria, Virginia.

WHEREAS, North Parkway, L.L.C., is the Owner of the property located at 532 North Washington Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain a landscape planter wall and stairs which will encroach into the public right-of-way at 532 North Washington Street; and

WHEREAS, the public rights-of-way at this location of the sidewalk adjacent to 532 North Washington Street will not be significantly impaired by this encroachment; and

WHEREAS, this encroachment has been approved by the Planning Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owner be, and the same hereby is, authorized to establish and maintain an encroachment over the public right-of-way at 532 North Washington Street in the City of Alexandria, said encroachment consisting of stairs located along the front of the premises facing North Washington Street extending approximately 7.9 feet into the public right-of-way for a width of approximately 7 feet; and also consisting of a one-foot tall landscape planter, extending approximately 6.7 feet into the public right-of-way for the entire length of the building, except in the location of the aforementioned stairs, as generally shown on the plat/final site plan attached hereto and approved by DSP # 2007-0011, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Owner of liability for any negligence on its part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Owner maintaining, at all times and at its own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	\$1,000,000 each occurrence \$1,000,000 aggregate
Property Damage:	\$1,000,000 each occurrence \$1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria as an additional insured and shall provide coverage for the City of Alexandria and Owner against claims, losses or actions occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Owner shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Owner. Nothing in this section shall relieve Owner of its obligations and undertakings required under this ordinance.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall in addition be subject to and conditioned upon the following terms:

- (a) Neither the City of Alexandria nor any public or private utility company shall be responsible for damage to Owner's property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way of any public facilities or utilities in the area of encroachment.
- (b) The Owner shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

Section 5. That the authorization herein granted to establish and maintain

the encroachment shall be subject to Owner maintaining the area of the encroachment at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 6. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

Section 7. That the authorization herein granted to establish and maintain the encroachment shall be terminated whenever the City of Alexandria desires to use the affected public right-of-way for any purpose whatsoever and, by written notification, demands from Owner the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owner without cost to the city. If Owner cannot be found, or shall fail or neglect to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of Owner, and shall not be liable to Owner for any loss or damage to the structure of the encroachment or personal property within the encroachment area, caused by the removal.

Section 8. The term "Owner" shall be deemed to include North Parkway, L.L.C. and respective successors in interest.

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

- 15. Public Hearing, Second Reading and Final Passage of an Ordinance to Establish and Maintain a Portion of a Retaining Wall at 3500 Goddard Way, Along Duke Street. (#21, 9/08/09) **[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. 15; 9/12/09, 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. 15; 9/12/09 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the ordinance to establish and maintain a portion of a retaining wall at 3500 Goddard Way, along Duke Street. 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. 4621

AN ORDINANCE authorizing the owner of the property located at 3500 Goddard Way to construct and maintain an encroachment for a portion of a stone retaining wall at that location.

WHEREAS, Duke Crossing, Inc., is the Owner ("Owner") of the property located at 3500 Goddard Way, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain a portion of a stone retaining wall which will encroach into the public sidewalk right-of-way at that location; and

WHEREAS, the public sidewalk right-of-way at that location will not be significantly impaired by this encroachment; and

WHEREAS, this encroachment has been approved by the Planning Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owner be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 3500 Goddard Way, in the City of Alexandria, said encroachment consisting of a portion of a stone retaining wall along the Duke Street frontage of the Quaker Ridge development extending approximately 4 inches into the public right-of-way for a length of approximately 65 feet, as generally shown on the plat attached hereto, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Owner of liability for any negligence on its part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Owner maintaining, at all times and at its own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury: \$1,000,000 each occurrence
 \$1,000,000 aggregate

Property Damage: \$1,000,000 each occurrence
 \$1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Owner as named insureds and shall provide for the indemnification of the City of Alexandria and Owner against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Owner shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Owner. Nothing in this section shall relieve Owner of its obligations and undertakings required under this ordinance.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall in addition be subject to and conditioned upon the following terms:

- (a) Neither the City of Alexandria nor any public or private utility company shall be responsible for damage to Owner's property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way of any public facilities or utilities in the area of encroachment.
- (b) Owner shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.
- (c) Owner shall add the appropriate approval block to the plat.
- (d) Owner shall provide to the City of Alexandria details for the encroachment area, including dimensions of the encroachment, prior to the mylar submission of the plat as follows: the length and depth of the encroachment area along the public right-of-way must be clearly depicted, and; the details shall include a tie distance from a lot corner to the beginning of the encroachment.
- (e) Owner shall contribute \$2,000 to the City of Alexandria for public improvements in the vicinity of the Quaker Ridge development, including but not limited to tree maintenance or pedestrian countdown signal upgrades.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

Section 5. That the authorization herein granted to establish and maintain the encroachment shall be subject to Owner maintaining the area of the encroachment at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 6. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

Section 7. That the authorization herein granted to establish and maintain the encroachment shall be terminated whenever the City of Alexandria desires to use the affected public right-of-way for any purpose whatsoever and, by written notification, demands from Owner the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owner without cost to the city. If Owner cannot be found, or shall fail or neglect to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of Owner, and shall not be liable to Owner for any loss or damage to the structure of the encroachment or personal property within the encroachment area, caused by the removal.

Section 8. The terms "Owner" shall be deemed to include Duke Crossing, Inc. and CarrHomes and their respective successors in interest.

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

16. Public Hearing, Second Reading and Final Passage of an Ordinance to Adopt Section 2-5-39 (Administration of Employee Homeownership Loan Programs For Other Entities) of the Alexandria City Code. (#22, 9/08/09) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated August 24, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 16; 9/12/09, 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. 16; 9/12/09, 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. 16; 9/12/09 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the ordinance to adopt Section 2-5-39, Administration of Employee Homeownership Loan Programs for other entities of the Alexandria City Code. 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. 4622

AN ORDINANCE to amend Article C (Employee Homeownership Incentive Program) of Chapter 5 (Officers and Employees) of Title 2 (General Government) of the Code of the City of Alexandria, Virginia, 1981, as amended, by adding thereto new Section 2-5-39 (ADMINISTRATION OF EMPLOYEE HOMEOWNERSHIP LOAN PROGRAMS FOR OTHER ENTITIES).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article C of Chapter 5 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby amended by adding thereto new Section 2-5-39, to read as follows:

The following is all new language

Sec. 2-5-39 Administration of employee homeownership loan programs for other entities.

(a) There is hereby provided by the City to the Alexandria Convention and Visitors Association, the Alexandria Economic Development Partnership, the Alexandria Redevelopment and Housing Authority, the Alexandria Sanitation Authority, and the Alexandria Transit Company the administration of each entities' employee homeownership incentive loan program. The City's administration will assist employees of the foregoing entities with the purchase of real estate located in the City of Alexandria, Virginia, to be occupied as a dwelling.

(b) Any loan made on behalf of and any applicant from an entity in subsection (a) above shall be subject to the provisions of this article, with the following exception.

(1) In lieu of the requirement under section 2-5-33(1), any applicant shall be, at the time of approval of his or her application, a full or part time (at least 20 hours per week, or equivalent), but not a seasonal, employee of an entity in subsection (a) above.

(c) In the case of an applicant who is an employee of an entity in subsection (a) above, the applicant, in addition to complying with the provisions of this article, shall comply with any additional terms and conditions, not in conflict with the provisions of this article, as such entity may provide by general rule or regulation.

(d) Each entity in subsection (a) above shall provide for funding in its budget for its own employee homeownership incentive loan program and the total amount of the loans under this article in any fiscal year shall not exceed the sum approved for such loans by such entity.

(e) Any loan made on behalf of an entity in subsection (a) above and under this article shall be subject to such funding availability, and provided on a first-come, first-served basis.

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

17. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend and Reordain Sections 3-3-36 (Notice of Invitation To Bid) and 3-3-64 (Public Notice) of the Alexandria City Code. (#23, 9/08/09) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated August 26, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 17; 9/12/09, 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. 17; 9/12/09, 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. 17; 9/12/09 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the ordinance to amend and reordain Sections 3-3-36, notice of invitation to bid and 3-3-64, public notice of the Alexandria City Code. 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. 4623

AN ORDINANCE to amend Section 3-3-36 (NOTICE OF INVITATION TO BID) of Division 1 (Competitive Sealed Bidding) of Article D (Contract Formation and Source Selection) of Chapter 3 (Purchases and Contractual Services) of Title 3 (Finance, Taxation and Procurement) and Section 3-3-64 (PUBLIC NOTICE) of Division 2 (Competitive Negotiation) of Article D (Contract Formation and Source Selection) of Chapter 3 (Purchases and Contractual Services) of Title 3 (Finance, Taxation and Procurement) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-3-36 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 3-3-36 Notice of invitation to bid.

(a) Notice inviting bids shall be published once in at least one newspaper published in or having a general circulation in the city a reasonable time prior to ~~and at least 10 days preceding~~ the last day set for the receipt of bids.

~~(b) The newspaper notice required herein shall include a general description of the articles to be purchased or sold, shall state where bid blanks and specifications may be secured and the time and place for opening bids.~~

~~(b)(c)~~ The purchasing agent shall also solicit sealed bids from all responsible prospective suppliers who have requested their names to be added to a "bidders' list" which the agent shall maintain by sending such other notice as will acquaint them with the proposed purchase or sale. In any case, invitations sent to the vendors on the bidders' list shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent.

~~(c)(d)~~ The agent may also advertise pending bids or sales by notice posted on the public bulletin board in the division of purchasing.

Section 2. That Section 3-3-64 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 3-3-64 Public notice.

~~A~~ At least 10 days reasonable time prior to the date set for receipt of proposals, public notice shall be given by publication in a newspaper of general circulation in the area in which the contract is to be performed. In addition, proposals may be solicited directly from potential contractors.

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

18. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend and Reordain Sections 3-2-61 (Definitions), 3-2-62 (Tax Rate and Levy), 3-2-69 (Duties of Director) and 9-1-84 (Public Utilities) and Repeal Sections 3-2-63 (Application For Classification as Commercial or Industrial User), 3-2-67 (Applicability to Telephone Service) and 3-2-71 (Cellular Telephone Tax) of the Alexandria City Code. (#24, 9/08/09) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated August 24, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 18 9/12/09, 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. 18; 9/12/09, 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. 18; 9/12/09 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the ordinance to amend and reordain Sections 3-2-61, definitions, 3-2-62, tax rate and levy, 3-2-69, duties of director, and 9-1-84, public utilities and repealed Sections 3-2-63, application for classification as commercial or industrial user, 3-2-67, applicability of telephone service, and 3-2-71, cellular telephone tax, of the Alexandria City Code. 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. 4624

AN ORDINANCE to amend Sections 3-2-61 (DEFINITIONS), 3-2-62 (TAX RATE AND LEVY), and 3-2-69 (DUTIES OF DIRECTOR) and repeal Sections 3-2-63 (APPLICATION FOR CLASSIFICATION AS COMMERCIAL OR INDUSTRIAL USER), 3-2-67 (APPLICABILITY TO TELEPHONE SERVICE), and 3-2-71 (CELLULAR TELEPHONE TAX) of Article F (Tax on Persons Purchasing Telephone and Water Services) of Chapter 2 (Taxation) of Title 3 (Finance, Taxation and Procurement); repeal Article U (Enhanced Emergency Telephone Service, E-911, Tax) of Chapter 2 (Taxation) of Title 3 (Finance, Taxation and Procurement); and amend Section 9-1-84 (PUBLIC UTILITIES) of Article C (Nonregulatory Licenses), of Chapter 1 (Business Licenses) of Title 9 (Licensing and Regulation) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-2-61 of Article F of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 3-2-61 Definitions.

The following words, phrases and terms shall for the purposes of this article, have the following respective meanings, except where the context clearly indicates a different meaning:

(1) Commercial or industrial user. The owner or tenant of property used primarily for commercial or industrial purposes, but this term shall not include apartment houses or other multiple-family dwellings.

(2) Dwelling unit. One or more rooms designed or intended for occupancy by a single-family.

(3) Multiple-family dwelling. A building or a portion thereof containing two or more dwelling units, but not including hotels or motels.

(4) Purchaser. Every person who purchases a utility service.

(5) Residential user. The owner or tenant of property used primarily for residential purposes, and this term shall include, but not by way of limitation, apartment houses and other multiple-family dwellings.

(6) Seller. Every person, whether or not a public service corporation or a municipality, who sells or furnishes a utility service.

(7) Used primarily. This term shall relate to the larger portion of the use for

which the utility service is furnished and, for the purposes of this article, in the determination of the primary use for which a utility service is furnished, the primary or larger portion of that use shall be determined by the relative load for each use or the relative time of operation by each.

(8) Utility service. This term shall include ~~a local exchange telephone service~~ and water service furnished in the city.

Section 2. That Section 3-2-62 of the City Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 3-2-62 Tax rate and levy.

There is hereby imposed and levied by the city, upon every purchaser of a utility service, a tax for general purposes in the following amounts: 15 percent for water service ~~and 25 percent for telephone service~~. The above mentioned tax rates shall be computed as a percent of the charge (exclusive of any federal or state tax thereon) made by the seller against the purchaser with respect to ~~each~~the utility service, which tax in every case shall be collected by the seller from the purchaser and shall be paid by the purchaser unto the seller for the use of the city at the time that the purchase price or such charge shall become due and payable under the agreement between the purchaser and the seller; provided, that in case any monthly bill submitted by any seller for service to a commercial or industrial user shall exceed \$150, there shall be no tax computed on so much of the bill as shall exceed \$150. Bills shall be considered monthly bills, for the purpose of this article, if submitted 12 times per year for periods of approximately one month each. Accordingly, there shall be no tax computed on so much of a bill for services submitted to a commercial or industrial user in excess of \$300 where the billing is made on a bi-monthly basis, that is, every other month, and there shall be no tax computed on so much of a bill for services submitted to a commercial or industrial user in excess of \$450 where the billing is made quarterly.

Section 3. That Section 3-2-63 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, repealed, and such section number is hereafter reserved.

Section 4. That Section 3-2-67 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, repealed, and such section number is hereafter reserved.

Section 5. That Section 3-2-69 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 3-2-69 Duties of director.

(a) The director shall be charged with the power and duty of collecting the taxes imposed and levied under this article.

~~(b) The director shall distribute to each seller, except sellers that elect to maintain records and rate schedules or tariffs for classifying commercial or industrial users, as provided in section 3-2-64 of this code, a list containing the names and addresses of all commercial and industrial users served by the seller. The lists shall be kept current by the director by notifying the sellers of any additions and deletions thereto, and shall be revised completely at least once per calendar year.~~

Section 6. That Section 3-2-71 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, repealed, and such section number is hereafter reserved.

Section 7. That Article U of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, repealed in its entirety.

Section 8. That Section 9-1-84 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 9-1-84 Public utilities.

(a) All motor vehicle carriers operating on or through the streets of the city shall pay for the privilege of using the streets, roads and routes, including bridges, an annual license tax as follows: one-fifth cent per mile for each mile operated within the city by any vehicle weighing 5,000 pounds or less, two-fifths cent per mile for each mile so operated by any vehicle weighing more than 5,000 pounds and less than 15,000 pounds; and three-fifths cents per mile for each mile so operated by any vehicle weighing more than 15,000 pounds.

(b) All telephone companies, for the privilege of doing business in the city, shall pay an annual license tax equal to ~~\$4.03~~\$0.50 per \$100 of the gross receipts for the rentals, subscriptions and stations, excluding however, business done between the city and points without the state and messages sent by the federal government of this state and their officers and agents.

(c) All persons engaged in the business of sending telegrams from the city to any point within the state shall pay for the privilege an annual license tax equal to \$0.50 per \$100 ~~two percent~~ of the gross receipts received from such telegrams and telegraphic communications of any kind.

(d) All persons furnishing water for domestic and commercial consumption shall pay for the privilege an annual license tax of one-half of one percent of the gross receipts from any one or more of such businesses.

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

19. Public Hearing, Second Reading and Final Passage of an Ordinance to Roll Back the Annual Adjustment of the Hourly Wage Rate Provided Under Section 3-3-31.1 of the Alexandria City Code. (#25, 9/08/09) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated August 24, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 19; 9/12/09, 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. 19; 9/12/09, 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. 19; 9/12/09 and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council adopted the ordinance to roll back the annual adjustment of the hourly wage rate provided under section 3-3-31.1 of the Alexandria City Code. 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. 4625

AN ORDINANCE to rollback the hourly wage rate that contractors are required to pay their employees under public contracts for the provision of services to the rate that was effective on July 1, 2008 (FY 2009), pursuant to Code Section 3-3-31.1 (SERVICE CONTRACT WAGES) of Division 1 (COMPETITIVE SEALED BIDDING) of Article D (CONTRACT FORMATION AND SOURCE SELECTION) of Chapter 3 (PURCHASES AND CONTRACTUAL SERVICES) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

WHEREAS, the City Council finds and determines that:

1. There is an economic downturn that is affecting the City of Alexandria and the City of Alexandria must decrease expenditures.
2. As such, the City of Alexandria would decrease expenditures by requiring that

contractors awarded public contracts for the provision of services, by competitive sealed bidding or competitive negotiation, rollback the hourly wage rate paid to their employees to the rate that was effective as of July 1, 2008 (FY 2009), pursuant to Code Section 3-3-31.1. This hourly wage rate rollback would also apply to public contracts for the provision of services renewed by the City.

3. Due to the fact that the wage rate was increased on July 1, 2009, pursuant to Code Section 3-3-31.1(b), adoption of this ordinance is necessary and desirable to aid in the reduction of expenditures by the City of Alexandria as soon as possible; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That contractors, awarded public contracts for the provision of services, by competitive sealed bidding or competitive negotiation, shall be required to pay their employees, who are assigned to perform services under such public contract and while such employees are performing services on property owned or controlled by the City, the hourly wage rate as determined under Code Section 3-3-31.1 and effective on July 1, 2008 (FY 2009).

Section 2. That the above mentioned hourly wage rate shall also apply to public contracts for the provision of services renewed by the City.

Section 3. That the ordinance shall not abrogate any additional requirements or duties set forth in Code Section 3-3-31.1.

Section 4. That this ordinance shall preempt any contrary provision of law, general or special.

Section 5. That this ordinance shall become effective upon the date and at the time of its final passage.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR

Planning Commission (continued)

- 20. SPECIAL USE PERMIT #2009-0033
504 JOHN CARLYLE STREET
7-ELEVEN
Public Hearing and Consideration of a request to operate a convenience store; zoned CDD-1/Coordinated Development District. Applicant: 7-Eleven Incorporated.

PLANNING COMMISSION ACTION: Deferred

21. DEVELOPMENT SPECIAL USE PERMIT #2007-0002
 630 & 636 NORTH PATRICK STREET
 CHURCH OF GOD AND SAINTS OF CHRIST
 Public Hearing and Consideration of a request for a development special use permit, with site plan and modifications to construct an addition on an existing church building; zoned RB/Residential. Applicant: Church of God and Saints of Christ, Sixteenth Tabernacle by R. McGhee.

PLANNING COMMISSION ACTION: Deferred

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

City Council noted the deferrals.

* * * * *

Deputy City Manager Evans noted that because it was mentioned earlier in the meeting that the October 13 work session would be on the I-95/395 HOTLanes, the previously scheduled work session on urban forestry would be rescheduled to another date.

* * * * *

THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried unanimously, City Council adjourned the public hearing meeting of September 12, 2009 was adjourned at 11:45 a.m. The voting was as follows:

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

APPROVED BY:

 WILLIAM D. EUILLE

 MAYOR

ATTEST:

 Jacqueline M. Henderson
 City Clerk and Clerk of Council