

**CITY COUNCIL OF ALEXANDRIA, VIRGINIA**

**Public Hearing Meeting**  
**Saturday, December 18, 2010 - - 9:30 a.m.**

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

Absent: None.

Also Present: Mr. Hartmann, City Manager; Mr. Spera, Deputy City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Mr. Johnson, Chief Financial Officer; Police Captain Ogden; Ms. Hamer, Director, Planning and Zoning; Ms. Ross, Deputy Director, Planning and Zoning; Mr. Catlett, Director, Office of Building and Fire Code Administration; Mr. Lerner, Deputy Director, Transportation and Environmental Services; Mr. Spengler, Director, Recreation, Parks and Cultural Activities; Ms. Blackford, Communications Officer, Office of Communications; Ms. McLean, Information Technology; 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. (Councilwoman Hughes arrived at 9:45 a.m.)

Mayor Euille noted the death last week of former City Councilmember Winfield McConchie.

2. Public Discussion Period.

(a) John Stephenson, 133 N. Payne Street, president, Alexandria Taxpayers United, thanked Council for its decision to publish on-line detailed information about the City's contracts for services, and they hope Council will continue to make the information about the City contracts available and easily accessible to the public in future budget cycles and hope they will consider expanding the scope of the database to new areas in encouraging transparency at the Alexandria City Public Schools.

(b) Don Buch, 389 Livermore Lane, spoke about BRAC and asked the City to provide the community a cost-benefit analysis of the development, as there appears to be more costs to be borne by the community. He said it appears the City could be out of pocket \$150 million as the cost of having BRAC locate at Mark Center. The citizens are overdue an explanation as to why the City was so eager to attract this target to a site that VDOT said was not viable from a traffic perspective.

Mayor Euille asked the City Manager to provide a response to Mr. Buch's request.

(c) Bert Ely, 200 S. Pitt Street, spoke of the Waterfront Planning process, noting that his concerns are that the plan has gone too far down the road based on assumption and untested assertions and is being built on a foundation of quicksand. The time has come for Council to say stop to peddling a waterfront vision until questions are answered which will shape what the waterfront will become, specifically: outcome of the pending waterfront litigation, docks and piers extending into D.C. waters and into the shipping channel, the money issue for constructing the public sector portions of the plan, and parking and specifically valet parking.

(d) Yvonne Weight Callahan, 735 S. Lee Street, spoke about Jones Point Park and asked for Council to appoint a neighborhood task force to oversee the construction at Jones Point Park.

(e) Gary Carr, 216 Aspen Street, spoke to the need for running tracks in the City. He also spoke about Potomac Yard and spoke of his statement before the School Board regarding the benefit of the Potomac Yard school to the children of Alexandria. He asked where will the children play and run.

(f) David Cavanaugh, 4008 Fort Worth Avenue, spoke of transportation planning in the West End and of the traffic studies for development as a result of the BRAC complex. He recommended that Council deny applications for increases in permitted density in the Beauregard Small Area Plan until transit, road improvements and systems will be in place to accommodate the expected growth; the City should slow down the Beauregard Small Area Plan process until it has a clear picture of transit options, benefits and costs; it should adopt dedicated funding for a local transportation and transit projects; it should include funding in the 2012 CIP budget for phase I improvements; and it should ensure transitway and transportation improvements are scheduled, funded and coordinated with adjacent jurisdictions.

(g) John Gosling, 208 S. Fayette Street, president, Old Town Civic Association, endorsed the idea of creating a task force to look after the reconstruction of the Jones Point Park. Mr. Gosling spoke of the Waterfront Small Area Plan, noting that the new materials created some issues that the members need to absorb before they can endorse the plan, including the creation of a plaza at the end of King Street, Fitzgerald Square, the relocation of the new marina to the south in front of Robinson Terminal, and the idea that the buildings that frame the open-space elements of the

Plan are beginning to emerge in greater detail and some degree of transparency between how the Torpedo Factory or the food court may be re-worked to engage with the open space. He said their main issue is of parking for visitors that penetrates deep into Old Town.

(h) Katy Cannady, 20 E. Oak Street, said Council needs to take the pulse of the public, and needs to know what the citizens think, and she said it was a real error to not schedule a public hearing on the criteria for rezoning without a master plan. She said she has problems related to affordable housing and the general attitude toward affordable housing. Revitalizing Arlandria could mean the end of a lot of affordable housing that is located there and the City should not do anything that threatens that housing. She said she was concerned about the Hamlets in the Beauregard Corridor Plan, which is unsubsidized affordable housing for people that work for a living and the planning process will bring an end to the Hamlets, and she would like a stated public policy that unsubsidized affordable housing must be preserved.

(i) Roger Waud, 501 Slaters Lane, #1203, president, North Old Town Independent Citizens Association, spoke of spot zoning and said it looks like it is a way for developers to get their nose under the tent and put them on a course toward the "Rosslynization" of Alexandria.

(j) Nancy Jennings, 2115 Marlboro Drive, said her trust of the City is at an all time low since the Army came to build BRAC at Mark Center and now the City wants to increase the density in the Beauregard Corridor Plan to heights that are 3-5 times what they said they wanted when the Mark Center CCD was done. She said there is a new proposal for a commercial tax that will fund infrastructure projects. She said she lacks the City Manager's optimism that the economy is recovering, as houses are selling in her neighborhood for \$100,000 less than they were in 2008. Ms. Jennings said that given the economy and the City's past record on delivering solutions, she didn't see how they could allow more density in the West End until they have transportation in place and some of the other infrastructure problems solved.

(k) Jack Sullivan, 4300 Ivanhoe Place, spoke to the criteria for rezoning without a master plan study and he submitted an amendment, which speaks to the section under "type of area" and suggested it read: "the need to protect residential neighborhoods would weigh in favor of not proceeding without a thorough study and, if necessary, an areawide rezoning plan."

(l) Poul Hertel, 1217 Michigan Court, spoke to the criteria for rezoning without a master plan study and said he still had concerns about the plan. He said they understand how the confines of the small area plan might be restrictive when it stands in the way of opportunities, but to them it is a comfort when it prevents development that does not fit into the fabric of the community. Mr. Hertel said in the proposal, because the last paragraph is a boilerplate for how to avoid being caught in the spot-zoning regulations, it removes the master plan protective measures. The proposal mentions neighborhood protection but marginalizes it, especially in the type of area plan

paragraph. He encouraged Council to work on that and make the changes as suggested by Jack Sullivan.

## REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

### **ACTION CONSENT CALENDAR (3) Planning Commission**

3. SPECIAL USE PERMIT #2010-0059  
104 SOUTH IRIS STREET  
HOME CHILD DAYCARE  
Public Hearing and Consideration of a request to operate a home child daycare; zoned R-2--5/Single and Two-Family. Applicant: Miriam Ayala

PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 18, 2010 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 12/18/10, and is incorporated as part of this record by reference.)

### **END OF ACTION CONSENT CALENDAR**

**WHEREUPON**, upon motion by Vice Mayor Donley, seconded by Councilman Krupicka and carried unanimously, City Council adopted the action consent calendar. The approval was as follows:

3. City Council approved the Planning Commission recommendation.

The voting was as follows:

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

## REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

- 3.1 Deferral from December 14, 2010: Consideration of Criteria for Rezoning Without a Master Plan Study. (#33, 12/14/10)

(A copy of the City Manager's memorandum dated December 7, 2010, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3.1; 12/18/10, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Donley, seconded by Councilman Krupicka and carried unanimously, City Council adopted the criteria for rezoning without

a master plan study, with an amendment to type of area, on page 3, lines 5 and 6, to delete the line "if redevelopment is appropriate, that factor weights in favor of proceeding" and replace it with "the need to protect residential neighborhoods would weigh in favor of not proceeding without a thorough study and, if necessary, an area wide rezoning plan."

Councilwoman Pepper asked for a friendly amendment under the small area plan, line 2 to add: "will the proposal be inconsistent with or a radical departure from the other existing uses in the area."

The amendment was accepted by the maker and seconder of the motion and is considered part of the motion.

The motion carried 6-1 and was as follows:

Donley	"aye"	Fannon	"aye"
Krupicka	"aye"	Hughes	"aye"
Euille	"aye"	Pepper	"aye"
	Smedberg	"no"	

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

### **Planning Commission**

None.

## **ORDINANCES AND RESOLUTIONS**

4. Public Hearing, Second Reading and Final Passage of an Ordinance to Establish the Tier I Potomac Yard Metrorail Station Special Services District. (#36, 12/14/10) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 9, 2010, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 12/18/10, 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. 4; 12/18/10, 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. 4; 12/18/10, and is incorporated as part of this record by reference.)

Deputy City Manager Jinks made a presentation of the report and responded to

questions of City Council.

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

(a) Andrew Macdonald, 217 N. Columbus Street, spoke against the special services tax district.

(b) Katy Cannady, 20 East Oak Street, spoke against the special tax district and to the little public input on the proposal.

(c) Jim Keim, 1820 Carpenter Road, spoke against the special tax district and noted that the Metro station will benefit everyone in Alexandria and everyone should pay a little of what it will cost to put it there.

(d) Jonathan Rak, 1750 Tysons Blvd., McLean, attorney for CPYR, Inc., owner of Landbay F, requested that there be a maximum tax rate of 20 cents.

**WHEREUPON**, upon motion by Councilman Krupicka and seconded by Councilwoman Pepper, City Council closed the public hearing and passed the ordinance to establish the Tier I Potomac Yard Metrorail Station Special Services District.

Vice Mayor Donley asked for a friendly amendment to Section 1 of the ordinance that the tax rate for the PYM-I service district shall not exceed twenty cents per one hundred dollars of assessed value.

The amendment was accepted by the maker and seconder of the motion and becomes part of the motion.

The motion carried 7-0 by roll-call vote and was as follows:

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

Councilwoman Hughes noted that she does not support existing properties in Presidential Greens as being part of the special tax district.

The ordinance reads as follows:

**ORDINANCE NO. 4693**

**AN ORDINANCE** to authorize creation of Tier I Potomac Yard Metrorail Station Special Services District, pursuant to Va. Code Section 15.2-2400, et seq.

WHEREAS, pursuant to Va. Code Section 15.2-2400, et seq., the City of Alexandria is authorized to establish service districts for portions of the City for the purpose of providing additional, more complete or more timely governmental services than may be needed or desired in the remainder of the City; and

WHEREAS, based upon the development approvals previously recommended by the Planning Commission and passed by City Council, as well as other approvals passed by City Council related to the Potomac Yards area in the City, the City Council has determined that a need exists to fund the research, planning, approvals and construction of a Metro Station as a feature of Potomac Yards, as well as other infrastructure related thereto, through the creation of a service district to be known as the Tier I Potomac Yard Metrorail Station Special Services District (hereafter the "PYM Service District");

NOW, THEREFORE, THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the PYM Service District is hereby established, with the boundaries thereof and parcels included therein as described in the notice previously published pursuant to Va. Code Section 15.2-2400 and -2402, which is attached hereto as Exhibit A, with a service tax rate not to exceed twenty cents per one hundred dollars of assessed value exclusive of all other applicable taxes.

Section 2. That the PYM Service District is established for the purpose of providing facilities and services related to the construction of the Potomac Yard Metro Station, including, but not limited to, studies, assessments and analysis of environmental and other impacts, any required local, state or federal governmental approvals, acquisition of real property or temporary and permanent easements therein, temporary or permanent relocation of roadways, rail lines or other infrastructure, and construction of the station, rail crossings, bridges, walkways and any other related infrastructure.

Section 3. That the planned facilities may be constructed and planned services provided by the City alone, in partnership with or by the Washington Metropolitan Area Transit Authority, via contractors or other third parties, subject to applicable management and oversight by the City pursuant to appropriate governing contracts, leases, or other agreements.

Section 4. That the benefits to be expected from the creation of the PYM Service District and the provision of the aforesaid facilities and services within said District include, without limitation, increased transit capacity, minimizing impact on neighboring areas, increased quality of life for area residents, reduction in vehicular traffic and the creation of a vibrant, dynamic urban mixed-use development within Potomac Yards.

Section 5. That staff is directed to promptly prepare an appropriate implementation ordinance codifying the PYM Service District in Title 3 of the City Code.

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

5. Public Hearing, Second Reading and Final Passage of an Ordinance Authorizing the Tenant of the Property Located at 320 Montgomery Street in the City of Alexandria, Virginia to Construct and Maintain an Encroachment For Outdoor Restaurant Seating on Royal Street at the Side of the Building Located at 320 Montgomery Street. (#12, 12/14/10) **[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. 5; 12/18/10, 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. 5; 12/18/10, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Donley, seconded by Councilwoman Pepper and carried unanimously by roll-call vote, City Council closed the public hearing and passed the ordinance authorizing the tenant of the property at 320 Montgomery Street to construct and maintain an encroachment for outdoor restaurant seating on Royal Street at the side of the building at 320 Montgomery Street. The voting was as follows:

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

The ordinance reads as follows:

#### ORDINANCE NO. 4694

AN ORDINANCE authorizing the tenant of the property located at 320 Montgomery Street in the City of Alexandria, Virginia to construct and maintain an encroachment for outdoor restaurant seating on Royal Street at the side of the building located at 320 Montgomery Street.

WHEREAS, Philip McCombie is the Tenant ("Tenant") of the property located at 320 Montgomery Street in the City of Alexandria, Virginia; and

WHEREAS, Tenant desires to establish and maintain outdoor restaurant seating which will encroach into the public sidewalk right-of-way on Royal Street at the



side of the building located at 320 Montgomery Street; and

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

WHEREAS, in Encroachment No. 2010-0007, the Planning Commission of the City of Alexandria recommended approval to the City Council subject to certain conditions at one of its regular meetings held on October 5, 2010, which recommendation was approved by the City Council at its public hearing on October 16, 2010; 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 Tenant be, and the same hereby are, authorized to establish and maintain an encroachment into the public sidewalk right-of-way on Royal Street at the side of the building located at 320 Montgomery Street as shown in the attached Encroachment Exhibits (See Exhibits A and B), in the City of Alexandria, said encroachment consisting of outdoor restaurant seating, 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 Tenant of liability for any negligence on their 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 Tenant maintaining, at all times and at their 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 named insured and shall provide for the indemnification of the City of Alexandria 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, Tenant 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 Tenant. Nothing in this section shall relieve Tenant of their 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 Tenant's property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.

(b) The Tenant shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.

(c) Outdoor dining at the restaurant shall comply with all requirements and conditions of SUP#2010-0047.

(d) The applicant shall maintain a minimum 4' wide unobstructed sidewalk.

(e) In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City.

(f) The ground surface material in the proposed encroachment area shall be approved by the Director of Transportation & Environmental Services and shall be flush with the existing sidewalk.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Tenant 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 Tenant 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 Tenant the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Tenant without cost to the city. If Tenant 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 Tenant, and shall not be liable to Tenant 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 "Tenant" shall be deemed to include Philip McCombie and his respective successors in interest to the tenancy at 320 Montgomery Street.

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

6. Public Hearing, Second Reading and Final Passage of an Ordinance Authorizing the Tenant of the Property Located at 277 South Washington Street in the City of Alexandria, Virginia to Construct and Maintain an Encroachment For Outdoor Restaurant Seating at That Location. (#13, 12/14/10) **[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; 12/18/10, 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; 12/18/10, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilwoman Hughes and carried unanimously by roll-call vote, City Council closed the public hearing and passed the ordinance authorizing the tenant of 277 South Washington Street to construct and maintain an encroachment for outdoor restaurant seating. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4695

AN ORDINANCE authorizing the tenant of the property located at 277 South Washington Street in the City of Alexandria, Virginia to construct and maintain an encroachment for outdoor restaurant seating at that location.

WHEREAS, Cathal and Meshelle Armstrong are the Tenants ("Tenant") of the property located at 277 South Washington Street in the City of Alexandria, Virginia; and

WHEREAS, Tenant desires to establish and maintain outdoor restaurant seating 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, in Encroachment No. 2010-0003, the Planning Commission of the City of Alexandria recommended approval to the City Council subject to certain conditions at one of its regular meetings held on May 04, 2010, which recommendation was approved by the City Council at its public hearing on May 15, 2010; 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 Tenant be, and the same hereby are, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 277 South Washington Street as shown in the attached Encroachment Exhibits (See Exhibits A and B), in the City of Alexandria, said encroachment consisting of outdoor restaurant seating, 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 Tenant of liability for any negligence on their 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 Tenant maintaining, at all times and at their 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 named insured and shall provide for the indemnification of the City of Alexandria 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, Tenant 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 Tenant. Nothing in this section shall relieve Tenant of their 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 Tenant's property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.

(b) The Tenant shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.

(c) A minimum of 7 feet of unobstructed sidewalk shall be maintained.

(d) In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Tenant 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 Tenant 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 Tenant the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Tenant without cost to the city. If Tenant 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 Tenant, and shall not be liable to Tenant 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 "Tenant" shall be deemed to include Cathal and Meshelle Armstrong and their respective successors in interest to the tenancy at 277 South Washington Street.

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

7. Public Hearing, Second Reading and Final Passage of an Ordinance Authorizing the Tenant of the Property Located at 818 North St. Asaph Street (Parcel Address 600 Montgomery Street) in the City of Alexandria, Virginia to Construct and Maintain an Encroachment For Outdoor Restaurant Seating at That Location. (#14, 12/14/10) **[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. 7; 12/18/10, 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. 7; 12/18/10, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilwoman Hughes and carried unanimously by roll-call vote, City Council closed the public hearing and passed the ordinance authorizing the tenant of 818 N. St. Asaph Street to construct and maintain an encroachment for outdoor seating. The voting was as follows:

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

Smedberg "aye"

The ordinance reads as follows:

ORDINANCE NO. 4696

AN ORDINANCE authorizing the tenant of the property located at 818 North St. Asaph Street (parcel address 600 Montgomery Street) in the City of Alexandria, Virginia to construct and maintain an encroachment for outdoor restaurant seating at that location.

WHEREAS, Maria Quilla is the Tenant ("Tenant") of the property located at 818 North St. Asaph Street (parcel address 600 Montgomery Street) in the City of Alexandria, Virginia; and

WHEREAS, Tenant desires to establish and maintain outdoor restaurant seating 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, in Encroachment No. 2010-0006, the Planning Commission of the City of Alexandria recommended approval to the City Council subject to certain conditions at one of its regular meetings held on October 5, 2010, which recommendation was approved by the City Council at its public hearing on October 16, 2010; 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 Tenant be, and the same hereby are, authorized to establish and maintain an encroachment into the public sidewalk right-of-way 818 North St. Asaph Street (Parcel Address: 600 Montgomery Street) as shown in the attached Encroachment Exhibit (Exhibit A), in the City of Alexandria, said encroachment consisting of outdoor restaurant seating, 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 Tenant of liability for any negligence on their 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 Tenant maintaining, at all times and at their 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 named insured and shall provide for the indemnification of the City of Alexandria 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, Tenant 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 Tenant. Nothing in this section shall relieve Tenant of their 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 Tenant's property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.

(b) The Tenant shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.

(c) Outdoor dining at the restaurant shall comply with all requirements and conditions of SUP#2010-0046.

(d) The applicant shall maintain a minimum 6' wide unobstructed sidewalk.

(e) In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City.

(f) The brick surface material proposed for the encroachment area shall be approved by the Director of Transportation & Environmental Services and shall be flush with the existing sidewalk.



Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Tenant 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 Tenant 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 Tenant the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Tenant without cost to the city. If Tenant 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 Tenant, and shall not be liable to Tenant 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 "Tenant" shall be deemed to include Maria Quilla and her respective successors in interest to the tenancy at 818 North St. Asaph Street (parcel address 600 Montgomery Street).

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

8. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the City Code to Update the Composition of the Gang Task Force. (#15, 12/14/10) **[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. 8; 12/18/10, 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. 8;

12/18/10, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Donley, seconded by Councilwoman Hughes and carried unanimously by roll-call vote, City Council closed the public hearing and passed the ordinance to amend the City Code to update the composition of the Gang Task Force. The voting was as follows:

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

The ordinance reads as follows:

**ORDINANCE NO. 4697**

AN ORDINANCE to amend and reordain Section 2-4-180 of Article W (ALEXANDRIA GANG PREVENTION COMMUNITY TASK FORCE), 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:**

(The following is all new language)

Section 1. That Section 2-4-180, Article W, Chapter 4 of Title 2 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 article and sections to read as follows:

**ARTICLE W – ALEXANDRIA GANG PREVENTION COMMUNITY TASK FORCE**

**Sec. 2-4-180 Creation, composition and organization.**

(a) There is hereby established a task force known as the Alexandria Gang Prevention Community Task Force ("Task Force").

(b) The Task Force shall consist of ~~1743~~ members to be appointed by the city council. The composition of the commission shall be as follows:

- (1) Two members from the city council;
- (2) One member from the Alexandria School Board;
- (3) The City Manager or his designee;
- (4) One member from and representing TC Williams High School;
- (5) One member from and representing Alexandria City Middle Schools;
- (6) One member from and representing Alexandria City Elementary Schools;

- (7) One member from and representing private schools in Alexandria;
- (8) One member from and representing a community organization with specific outreach to the Latino community;
- (9) One member representing a community organization with specific outreach to the African-American community;
- (10) Two at-large members from and representing the youth of the City of Alexandria;
- (11) One member from and representing the Alexandria Interfaith Council;
- (12) Two citizens-at-large;
- (13) One representative of the Alexandria business community; and
- (14) One representative from and representing the parents of youth of the City of Alexandria.

(The remaining sections are unchanged)

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 the Number of Members of the Alexandria Marketing Committee From Seven Members to Nine Members. (#16, 12/14/10) **[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; 12/18/10, 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; 12/18/10, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Councilwoman Pepper and carried unanimously by roll-call vote, City Council closed the public hearing and passed the ordinance to amend the number of members of the Alexandria Marketing Committee from seven to nine members. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4698

AN ORDINANCE to amend and reordain certain provisions of Article G.1 (ALEXANDRIA MARKETING COMMITTEE AND COORDINATING COUNCIL), 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 Article G.1 (ALEXANDRIA MARKETING COMMITTEE AND COORDINATING COUNCIL), Chapter 4 (COMMITTEES, BOARDS AND COMMISSIONS), 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 following amendments to the identified section as follows:

Sec. 2-4-64 Same -- composition.

The committee shall consist of ~~seven~~ nine members: one citizen at large and ~~six~~ eight additional members with a variety of experience or expertise in the following areas:

- (1) Marketing/communications;
- (2) Advertising agency/public relations;
- (3) Media buyer;
- (4) Graphic design/production;
- (5) Media relations/media outlet.

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 Amending City Code Sections 3-3-24, 3-3-32 and 3-3-62 in Accordance With the Modifications Made to Virginia Code Section 2-2-4304, 2.2-4305 and 2.2-4303 and to Amend City Code Section 3-3-24 to Lift Restrictions on the City's Ability to Make Purchases Under Contracts Competitively Entered by Other Public Bodies. (#17, 12/14/10) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 6, 2010, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 12/18/10, 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; 12/18/10, 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; 12/18/10, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Donley, seconded by Councilman Smedberg and carried unanimously by roll-call vote, City Council closed the public hearing and passed the ordinance to lift restrictions on the City's ability to make purchases under contracts competitively entered by other public bodies. The voting was as follows:

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

The ordinance reads as follows:

**ORDINANCE NO. 4699**

AN ORDINANCE to amend and reordain Section 3-3-24 (PURCHASES UNDER CONTRACT COMPETITIVELY ENTERED BY OTHER PUBLIC BODIES) of Article C (COOPERATIVE PROCUREMENT), Section 3-3-32 (COMPETITIVE BIDDING ON STATE AID PROJECTS) of Division 1 (COMPETITIVE SEALED BIDDING) of Article D (CONTRACT FORMATION AND METHODS OF SOURCE SELECTION) and Section 3-3-62 (CONDITIONS FOR USE) of Division 2 (COMPETITIVE NEGOTIATION) of Article D (CONTRACT FORMATION AND METHODS OF SOURCE SELECTION), all 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 Article C (Cooperative Procurement) 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, be, and the same hereby is, amended by enacting amended Section 3-3-24, to read as follows:

**Sec. 3-3-24 Purchases under contracts competitively entered by other public bodies.**

(a) Notwithstanding any other provision of this chapter to the contrary, except ~~for contracts for architectural and engineering services~~ as listed under subsection (b), the city may purchase from another public body's contract even if the city did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being conducted on behalf of other public bodies. Prior to any city purchase under a contract entered by another public body, the

purchasing agent shall find that the process pursuant to which the contract was entered generally complied with the policies and procedures established by this chapter.

(b) The city may not purchase:

(1) from another public body's contract for architectural or engineering services or

(2) for construction in excess of \$200,000, from the contract of another local public body that is more than a straight line distance of 75 miles from the territorial limits of the city. The installation of artificial turf or other athletic surfaces shall not be subject to the limitations prescribed in this subsection. Nothing in this subsection shall be construed to prohibit sole source or emergency procurements awarded pursuant to the City Code Section 3-3-71 or 3-3-73.

Section 2. That Division 1 (Competitive Sealed Bidding) of Article D (Contract Formation And Methods of 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, be, and the same hereby is, amended by enacting amended Section 3-3-32, to read as follows:

Sec. 3-3-32 Competitive bidding on state aid projects.

No contract for the construction of any building or for an addition to or improvement of an existing building for which state funds of not less than \$350,000, in the aggregate or for the sum of all phases of a contract or project, either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of the construction, addition or improvement shall be let except after competitive sealed bidding or competitive negotiation as provided under subsection (b) of section 3-3-62. The procedure for the advertising for bids or the submission of proposals and the letting of the contract shall conform, mutatis mutandis, to this chapter. No person or firm shall be eligible to bid on or submit a proposal for any such contract, or to have the same awarded to him or it, who or which has been engaged as architect or engineer for the same project under a separate contract.

Section 3. That Division 2 (Competitive Negotiation) of Article D (Contract Formation and Methods of 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, be, and the same hereby is, amended by enacting amended Section 3-3-62, to read as follows:

Sec. 3-3-62 Conditions for use.

(a) Upon a determination made in advance by the purchasing agent and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services or insurance may be procured by

competitive negotiation. The writing shall document the basis for this determination. Notwithstanding the foregoing, upon a determination made in advance by the purchasing agent that the procurement of insurance by competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed broker or agent selected through competitive negotiation. The basis for this determination shall be documented in writing.

(b) Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the purchasing agent and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

(1) for the construction, alteration, repair, renovation or demolition of buildings or structures when the contract is expected to equal or be less than \$1.5 million;

(2) on a fixed price design-build basis or construction management basis under section 2.2-4308 of the Code of Virginia, 1950, as amended, when the contract is not expected to cost more than \$1.5 million;

(3) the construction of highways, streets and alleys;

(4) the draining, dredging, excavation or grading of, or similar work upon, real property; or

(5) as otherwise provided in section 3-3-70.

Section 4. 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 Vacate a Portion of the Public Right-of-Way at 3110 Mount Vernon Avenue (VAC No. 2009-0001). (#18, 12/14/10) **[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; 12/18/10, 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; 12/18/10, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Vice Mayor Donley and carried unanimously by roll-call vote, City Council closed the public hearing and passed the ordinance to vacate a portion of the public right-of-way at 3110 Mount

Vernon Avenue. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4700

AN ORDINANCE to vacate a portion of the public right-of-way at 3110 Mount Vernon Avenue (VAC No. 2009-0001).

WHEREAS, UDR Developers, Inc., on behalf of UDR Calvert, LLC (Owner) has applied for the vacation of a portion of the public right-of-way adjacent to the property at 3110 Mount Vernon Avenue in the City of Alexandria, Virginia; and

In Vacation No. 2009-0001, the planning commission recommended approval to the City Council on September 7, 2010 of a vacation of public right of way, which recommendation was approved by the City Council at public hearing on September 25, 2010; and

WHEREAS, viewers, Dak Harwick, C.E. Palmer-Johnson, and Sandy Murphy have been, and again by this ordinance are, duly appointed by the Council of the City of Alexandria, to make their report in conjunction with this vacation; and

WHEREAS, the procedures required by law, including the publication of notice in a newspaper of general circulation in the City of Alexandria, have been followed in conjunction with this vacation; and

WHEREAS, in consideration of the report of the viewers, of other evidence relative to this vacation and of compliance with the conditions set forth in this ordinance, the Council of the City of Alexandria, has determined that the portion of the public right-of-way to be vacated is no longer desirable for public use and that the public interest will not be harmed by this vacation; therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the vacation of the public right-of-way to Owner, as shown on the plat of vacation title "Plat Showing Abandonment and Vacation of a Portion of Mount Vernon Avenue" attached hereto as Exhibit A and incorporated herein by reference and as described in the metes and bounds titled "Description of Mount Vernon Avenue (Portion to be abandoned and vacated)", attached hereto as Exhibit B and incorporated herein by reference, be, and the same hereby is, approved.



Section 2. That the vacation made and provided by the preceding section of this ordinance, be, and the same hereby is, subject to the conditions set forth below:

1. The vacated right-of-way shall be consolidated with the adjoining lot, and the plat of consolidation approved by the Directors of P&Z and T&ES prior to release of the final site plan. The approved plat shall be recorded in the Land Records of the City of Alexandria.

2. Utility easements for all public and private utilities shall be provided within the vacated right-of-way and such easements are to be shown on the plat of consolidation.

3. The sanitary sewer lateral upstream of the existing sanitary manhole located in the existing right-of-way that will be located in the future sanitary easement shall be maintained by the applicant.

4. The applicant shall be responsible for perpetual ownership, development and maintenance of the improvements constructed in the vacated right-of-way.

5. The property owners may not use the vacated land area to derive any increased above and below grade development rights for the lands adjacent to the vacated area, including increased floor area, subdivision rights or additional dwelling units; however, the property owner may construct the planters and steps as shown on the Preliminary Site Plan. The above and below grade restrictions shall appear as part of the deed of vacation and shall also appear as a note on the consolidation plat, both of which shall be approved by the Directors of P&Z and T&ES.

6. The City shall own and maintain the sidewalk constructed in the public right-of-way and the property owner shall own and maintain the improvements constructed in the vacated right of way. This area shall be covered by a public access easement that allows the public to use the improvements constructed in the vacated public right-of-way.

Section 3. The term "Owner" shall be deemed to include UDR Developers, Inc., and UDR Calvert, LLC and their respective successors in interest.

Section 4. That the city manager be, and hereby is, authorized to do on behalf of the City of Alexandria all things necessary or desirable to carry into effect this vacation, including the execution of documents.

Section 5. That the city clerk be, and hereby is, authorized to attest the execution by the city manager of all documents necessary or desirable to carry into effect this vacation, and to affix thereon the official seal of the City of Alexandria, Virginia.

Section 6. That this ordinance shall be effective upon the date and at the time of its final passage; provided, however, that no recordation of this ordinance shall

have any force or effect unless and to the extent annexed to a deed, executed by the city manager and attested by the city clerk, conveying the property vacated to Owner. The execution of such deed shall constitute conclusive evidence of compliance with the provisions of this ordinance. Such deed shall be recorded and indexed in the name of the City of Alexandria, as grantor, and Owner as grantee, and such recordation shall be done by the grantee at his or her own expense. In the event no such deed is recorded within 18 months of the effective date, this ordinance shall be void and of no effect.

12. Public Hearing, Second Reading and Final Passage of an Ordinance to Make Supplemental Appropriations for the Support of the City Government for Fiscal Year 2011. (#19, 12/14/10) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 6, 2010, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12; 12/19/10, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 12; 12/18/10, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 12; 12/18/10, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Donley, seconded by Councilman Smedberg and carried unanimously by roll-call vote, City Council closed the public hearing and passed the ordinance to make supplemental appropriations for the support of the City government for FY 2011. The voting was as follows:

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

The ordinance reads as follows:

**ORDINANCE NO. 4701**

**AN ORDINANCE** making provision for the support of the government of the City of Alexandria, Virginia for fiscal year 2011.

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

Section 1. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the funds hereafter named the amounts required to

defray the expenditures and liabilities of the city for which commitments were established in the form of encumbrances or otherwise on or before June 30, 2010, but which are payable in fiscal year 2011, and for which amounts were appropriated but not expended in fiscal year 2010, and further that the council does hereby allot the amounts so appropriated to the several city departments for fiscal year 2011, as follows:

EQUIPMENT REPLACEMENT RESERVE FUND

Sheriff	\$ 600
Transportation and Environmental Services	74,703
Police	341,818
Human Services	102,103
Recreation	28,999
Total Equipment Replacement Reserve Fund	<u>\$ 548,223</u>

Section 2. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2011 the source of such amount being external grant awards for which the proceeds were received or accepted prior to June 30, 2010, but which were not expended by such date, and further that the council does hereby allot the amount so appropriated to the several city departments for fiscal year 2011, as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Office on Women	\$19,839
Commonwealth's Attorney	40,222
Sheriff	282
Court Service Unit	248,391
Human Rights	35,100
Planning and Zoning	298,311
Transportation and Environmental Services	500,000
Fire	200,625
Police	90,072
Housing	8,532,072
Health	22,565
Human Services	951,061
Office of Historic Alexandria	136,886
Recreation	51,561
Non-Departmental	<u>33,850</u>
Total Estimated Revenue	<u>\$11,160,837</u>

SPECIAL REVENUE FUND

APPROPRIATION:

Office on Women	\$19,839
Commonwealth's Attorney	40,222
Sheriff	282
Court Service Unit	248,391
Human Rights	35,100
Planning and Zoning	298,311
Transportation and Environmental Services	500,000
Fire	200,625
Police	90,072
Housing	8,532,072
Health	22,565
Human Services	951,061
Office of Historic Alexandria	136,886
Recreation	51,561
Non-Departmental	<u>33,850</u>
Total Appropriation	<u>\$11,160,837</u>

Section 3. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2011 the source of such amount being external grant awards for which the proceeds were received or accepted prior to June 30, 2010, but which were not expended by such date, and further that the council does hereby allot the amount so appropriated to the several city departments for fiscal year 2011, as follows:

STIMULUS FUND

ESTIMATED REVENUE:

Office on Women	\$21,709
Sheriff	96,649
General Services	655,800
Transportation and Environmental Services	3,556,860
Housing	538,503
Mental Health/Mental Retardation/Substance Abuse	78,369
Office of Historic Alexandria	<u>445,508</u>
Total Estimated Revenue	<u>\$5,393,398</u>

STIMULUS FUND

APPROPRIATION:

Office on Women	\$21,709
Sheriff	96,649
General Services	655,800

Transportation and Environmental Services	3,556,860
Housing	538,503
Mental Health/Mental Retardation/Substance Abuse	78,369
Office of Historic Alexandria	<u>445,508</u>
Total Appropriation	<u>\$5,393,398</u>

Section 4. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2011 the source of such amount being external grant awards for which the proceeds were authorized and adjusted after July 1, 2010 but not appropriated, and further that the council does hereby allot the amount so appropriated to the several city departments for fiscal year 2011, as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Office on Women	\$ 6,536
Commonwealth's Attorney	30,607
Sheriff	(17,213)
Court Services Unit	260,019
Transportation and Environmental Services	867,028
Fire	867,782
Police	247,088
Housing	3,560,944
Mental Health/Mental Retardation/Substance Abuse	63,216
Human Services	(216,640)
Non-Departmental	<u>800,000</u>
Total Estimated Revenue	<u>\$6,469,457</u>

SPECIAL REVENUE FUND

APPROPRIATION:

Office on Women	\$6,536
Commonwealth's Attorney	30,607
Sheriff	(17,213)
Court Services Unit	260,109
Transportation and Environmental Services	867,028
Fire	992,782
Police	247,088
Housing	3,560,944
Mental Health/Mental Retardation/Substance Abuse	63,216
Human Services	(216,640)
Non-Departmental	<u>800,000</u>

Total Appropriation \$6,469,457

Section 5: That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2011 the source of such amount being external grant awards for which the proceeds were authorized and adjusted after July 1, 2010 but not appropriated, and further that the council does hereby allot the amount so appropriated to the several city departments for fiscal year 2011, as follows:

STIMULUS FUND

ESTIMATED REVENUE:

Transportation and Environmental Services	863,775
335,003	
Mental Health Mental Retardation and Substance Abuse	75,641
Human Services	<u>377,863</u>
Total Estimated Revenue	<u>\$ 1,317,279</u>

STIMULUS FUND

APPROPRIATION:

Transportation and Environmental Services	863,775
	335,003
Mental Health Mental Retardation and Substance Abuse	75,641
Human Services	<u>377,863</u>
Total Appropriation	<u>\$ 1,317,279</u>

Section 6. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city in fiscal year 2011 the source of such amount being the residual balances accumulated as of June 30, 2010, in accounts for donations and activities, and further that the council does hereby allot the amount so appropriated to the several city departments for fiscal year 2011, as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Office on Women	\$16,647
Citizen Assistance	6,550
Commonwealth's Attorney	9,112

Sheriff	40,899
Court Service Unit	1,885
Clerk of the Court	121,474
Finance	22,957
Human Resources	114,627
General Services	9,867
Transportation and Environmental Services	11,940
Sanitary Sewer Fund	6,312,668
Fire	22,608
Police	287,553
Housing	6,850
MHM RSA	50
Health	1,725
Human Services	152,367
Historic Alexandria	65,696
Recreation	<u>127,164</u>
Total Estimated Revenue	<u>\$ 7,332,639</u>

SPECIAL REVENUE FUND

APPROPRIATION:

Office on Women	\$16,647
Citizen Assistance	6,550
Commonwealth's Attorney	9,112
Sheriff	40,899
Court Service Unit	1,885
Clerk of the Court	121,474
Finance	22,957
Human Resources	114,627
General Services	9,867
Transportation and Environmental Services	11,940
Sanitary Sewer Fund	6,312,668
Fire	22,608
Police	287,553
Housing	6,850
MHM RSA	50
Health	1,725
Human Services	152,367
Historic Alexandria	65,696
Recreation	<u>127,164</u>
Total Appropriation	<u>\$7,332,639</u>

Section 7. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter stated the amount hereafter

stated that is required to defray certain expenditures of the city for fiscal year 2011 the source of such amount being undesignated General Fund Balance, and further that the Council does hereby allot the amount so appropriated to the several city departments, as follows:

GENERAL FUND

ESTIMATED REVENUE:

Undesignated General Fund Balance	<u>\$13,192</u>
Total Estimated Revenue	<u>\$13,192</u>

APPROPRIATION:

Citizen Assistance	\$798
City Clerk and Clerk of Council	1,200
Office of Historic Alexandria	<u>11,194</u>
Total Appropriation	<u>\$13,192</u>

Section 8. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2011, the source of such amount being Capital Project Fund revenue, and further that the Council does hereby allot the amount so appropriated for fiscal year 2011, as follows:

CAPITAL PROJECTS

ESTIMATED REVENUE:

Capital Projects	<u>\$1,625,157</u>
Total Estimated Revenue	<u>\$1,625,157</u>

APPROPRIATION:

Capital Projects	<u>\$1,625,157</u>
Total Appropriation	<u>\$1,625,157</u>

Section 9. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter stated the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2011, the source of such amount being Designated General Fund Balance, and further, that the council does hereby allot the amount so appropriated, as follows:

GENERAL FUND

ESTIMATED REVENUE:



Designated General Fund Balance	<u>\$ 3,839,183</u>
Total Estimated Revenue	<u>3,839,183</u>

APPROPRIATION:

Human Services	\$209,000
Planning and Zoning	94,000
Contingent Reserves	769,856
Transportation and Environmental Services	1,253,004
Historic Alexandria	48,250
Recreation	75,000
Economic Development Activities	187,000
Non-Departmental	1,203,073
Total Appropriation	<u>\$ 3,839,183</u>

Section 10. That the Council of the City of Alexandria, Virginia, does hereby make provision for and transfer appropriations in the General Fund in the amounts hereafter stated that are required to defray certain expenditures and liabilities, as follows:

GENERAL FUND

APPROPRIATION:

Circuit Court	\$6,769
Commonwealth's Attorney	4,418
City Clerk	2,287
City Manager	2,629
Clerk of the Courts	4,435
Court Service Unit	(10,000)
Finance	(26,714)
Fire	(45,917)
Code	24,538
City Attorney	(195,000)
General Services	(1,695)
Health	(6,280)
Historic Alexandria	17,787
Housing	5,178
Human Resources	20,342
Human Rights	3,775
Human Services	46,030
Information Technology Services	17,124
Internal Audit	13,399
Juvenile and Domestic Relations Court	801
Library	22,310

Other Public Safety/Animal Shelter	2,500
Mental Health/Mental Retardation and Substance Abuse	26,690
Communications	3,384
Office on Women	19,112
Planning and Zoning	9,629
Police	(27,559)
Real Estate	10,006
Recreation	33,812
Registrar of Voters	2,398
Sheriff	(9,740)
Transportation and Environmental Services	8,262
Emergency Communications	96,290
Non-Departmental	(81,000)
 Total Appropriation	 <u>\$ 0</u>

Section 11. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city in the fiscal year 2011, the source of such amount being General Fund revenue in support of the Special Revenue Fund, and further that the council does hereby allot the amount so appropriated, as follows:

SPECIAL REVENUE FUND/COMPONENT UNIT

ESTIMATED REVENUE:

Transfers In	<u>\$100,208</u>
Total Estimated Revenue	<u>\$100,208</u>

APPROPRIATION

Housing	\$5,178
Library	22,310
MHMRSA	26,690
DHS	<u>46,030</u>
Total Appropriation	<u>\$100,208</u>

Section 12. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2011, the source of such amount being Special Revenue Fund revenue, and further, that the council does hereby allot the amount so appropriated for fiscal year 2011, as follows:

SPECIAL REVENUE FUND

APPROPRIATION:

ESTIMATED REVENUE:

Transfer in From General Fund – Non-Departmental	\$18,483
Vendor Cart Fee Revenue	24,000
Payment in Lieu of Rebanding Revenue	<u>163,018</u>
Total Estimate Revenue	<u>\$205,501</u>

APPROPRIATION:

General Services	\$42,483
Police	<u>163,018</u>
Total Appropriation	<u>\$205,501</u>

Section 13. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter stated the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2011, the source of such amount being Intergovernmental Revenue, and further, that the council does hereby allot the amount so appropriated, as follows:

GENERAL FUND

ESTIMATED REVENUE:

Intergovernmental Revenue	\$ 490,701
Total Estimated Revenue	<u>\$ 490,701</u>

APPROPRIATION:

Non-Departmental - OPEB	\$ 97,049
Non-Departmental – Debt Service	<u>393,652</u>
Total Appropriation	<u>\$ 490,701</u>

Section 14. That this ordinance shall be effective upon the date and at the time of its final passage.

13. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the Civil Penalties Section of the City's Erosion and Sediment Control Ordinance. (#21, 12/14/10) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 2, 2010, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 12/18/10, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 13; 12/18/10, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 13; 12/18/10, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Donley, seconded by Councilwoman Pepper and carried unanimously by roll-call vote, City Council closed the public hearing and passed the ordinance to amend the civil penalties section of the City's Erosion and Sediment Control ordinance. The voting was as follows:

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

The ordinance reads as follows:

#### ORDINANCE NO. 4702

AN ORDINANCE to amend and reordain Section 5-4-14.1 of Chapter 4 (EROSION AND SEDIMENT CONTROL), 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 5-4-14.1, Chapter 4 of Title 5 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

#### Section 5-4-14.1 Civil Penalties

(a) A violation of any section or provision of this article may, in addition to and notwithstanding the penalty provided for in subsection (b), be a civil violation that shall be enforced through the levying of a civil penalty, pursuant to section 1-1-11 of this code, of \$500 for a person's first violation and of \$1,000 for each subsequent violation of the same section or provision. Each day during which a violation exists shall constitute a separate violation. However, a series of violations arising from the same operative set of facts shall not give rise to the levying of a civil penalty more frequently than once in any ten-day period, and shall not result in civil penalties exceeding a total of \$3,000.

(The remaining sections are unchanged)

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

14. Consideration of a Resolution to Amend the Appointment of the Resident Board Member of the Alexandria Redevelopment and Housing Authority. **[ROLL-CALL VOTE]**

(A copy of the resolution is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 12/18/10, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Vice Mayor Donley and carried unanimously by roll-call vote, City Council adopted the resolution to amend the appointment of the resident board member of the ARHA. The voting was as follows:

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

The resolution reads as follows:

RESOLUTION NO. 2429

WHEREAS, on February 27, 1990, in Resolution No. 1438, the City Council expanded the Alexandria Redevelopment and Housing Authority ("ARHA") Board of Commissioners from seven to nine commissioners, and added designated seats on the Board for a representative from the Alexandria Resident Council who is to be selected by the Resident Council and appointed by City Council, and a representative from the Alexandria Landlord-Tenant Relations Board who is to be selected by the Landlord-Tenant Board and appointed by City Council; and

WHEREAS, the City Council has now determined that the position held by a representative from the Alexandria Resident Council who is selected by the Resident Council should henceforth be a position to be filled by a properly qualified citizen of Alexandria who is a resident of public housing administered by the Alexandria Redevelopment and Housing Authority without regard to selection by the Resident Council;

NOW, THEREFORE, BE IT RESOLVED by the Alexandria City Council:

1. That the position on the ARHA Board of Commissioners previously designated to be filled by a representative selected by the Alexandria Resident Council

shall now be a position to be filled by a properly qualified citizen of Alexandria who is a resident of public housing administered by the Alexandria Redevelopment and Housing Authority without regard to selection by the Resident Council;

2. That the provisions of any other resolution which are inconsistent with Paragraph 1 of this resolution shall be, and hereby are, rescinded.

3. That this resolution shall become effective upon its adoption by the City Council.

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

**DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

**Planning Commission (continued)**

None.

**END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

**EXECUTIVE SESSION**

15. Consideration of a Closed Meeting to Discuss a Briefing By Counsel and Staff on Pending Legal Matters.

**WHEREUPON**, upon motion by Councilwoman Hughes, seconded by Councilman Smedberg and carried unanimously, at 12:16 p.m., City Council convened in executive session, pursuant to Section 2.2-3711(a)(7) of the Code of Virginia for the purpose of consulting with legal counsel regarding pending or potential litigation. The voting was as follows:

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

**WHEREUPON**, upon motion by Councilwoman Hughes, seconded by Councilman Smedberg and carried unanimously, at 12:38 p.m., City Council reconvened the meeting. The voting was as follows:

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

**WHEREUPON**, upon motion by Councilwoman Hughes, seconded by

Councilman Smedberg and carried unanimously by roll-call vote, City Council adopted a resolution pertaining to the Executive Session. The voting was as follows:

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

The resolution reads as follows:

RESOLUTION NO. 2430

WHEREAS, the Alexandria City Council has this 18th day of December 2010, 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 Councilwoman Hughes, seconded by Councilwoman Pepper and carried unanimously, City Council adjourned the public hearing meeting of December 18, 2010 at 12:40 p.m. The voting was as follows:

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

APPROVED BY:

\_\_\_\_\_  
WILLIAM D. EUILLE

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
Jacqueline M. Henderson  
City Clerk and Clerk of Council