

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

REGULAR MEETING

Saturday, February 12, 2011 – 9:30 a.m.

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. Banks, City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Police Captain Ogden; Police Chief Cook; Ms. Hamer, Director, Planning and Zoning; Ms. Ross, Deputy Director, Planning and Zoning; Ms. Wright, Planning and Zoning; Mr. Geratz, Planning and Zoning; Ms. Willger, Planning and Zoning; Dr. Haering, Health Department Director; 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. Harris, Communications Officer, Office of Communications; 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.

2. Public Discussion Period.

(a) Bert Ely, 200. S. Pitt Street, expressed concern about the financial aspect of the proposed waterfront plan, noting that crucial aspects of the plan are unknown or highly questionable as to completeness or reasonableness. Before adopting the plan, Council should direct that the financial aspects of the plan be reviewed by independent experts, and Council needs to put the breaks on the plan until it has much more complete and realistic revenue cost estimates.

(b) Poul Hertel, 1217 Michigan Court, commended Council for the comments made at the waterfront work session. He said they need to know what is on the table, as there is no implementation strategy to the plan, and there are two outside entities that affect the plan and it needs clarity on what they both intend to do - one is the Old Dominion Boat Club and the other is the Federal Government. He asked if it does not

get the parking lot, does it still get the building, and if it does get the parking lot and building, who will pay for it and how much will it cost.

(c) Don Buch, 389 Livermore Lane, said he previously requested that the public be provided a cost-benefit analysis for the BRAC project, and he asked how that is progressing. He said he also asked that this be placed on the agenda for next week's BRAC Advisory Group meeting, and it did not get put on the final agenda and he was advised that the City had determined it was not an appropriate topic to be pursued by the Advisory Group.

Deputy City Manager Jinks said the cost-benefit analysis is being worked on and should be done this month. He also noted that the analysis is a legitimate topic for the BRAC Advisory Group to discuss.

(d) Nancy Jennings, 2115 Marlboro Drive, president, Seminary Hill Association, said the Seminary Hill Association has enjoyed the support of City Council to preserve their neighborhoods from cut-through traffic and have objected to the addition of any new traffic onto Seminary Road from I-395. She asked Council to reaffirm its support for the protection of their neighborhoods as it did in Resolution 2366 when it opposed HOV off-ramps at Seminary Road. She urged Council to consider options such as a redesign of the interchange as an urban diamond or putting an HOV off-ramp onto another better functioning interchange that has fewer topographical challenges, such as King or Duke Streets.

(e) Shirley Downs, 1007 N. Vail Street, spoke of the proposal from VDOT, which suggests that the access ramp should begin at Sanger and go up, and they are concerned that the proposal would remove the trees, which have screened their view of 395 and provided noise mitigation and visual pollution. If a sound barrier is put up, they are recommending that it be made as pretty as possible and still have trees on the Van Dorn side to screen it. She said the fixing of the intersections by providing the access ramp does nothing to mitigate the traffic that is going to spill over onto the surrounding intersections.

(f) Michael Hobbs, 419 Cameron Street, spoke to the legal implications of the waterfront plan, noting that land use on three of the four sites proposed for redevelopment is governed in part by the settlement agreements of the early 1980's and would apparently not permit the hotels proposed for the Robinson terminal site or the restaurant building in Waterfront Park. Implementation of the plan would require amendment of those settlement agreements. He noted that changes to the public policy agreement governing Waterfront Park should be undertaken only with the most careful advice of the Planning Department and the City Attorney.

(g) Carol James, 1000 N. Vail Street, said that as they look at the VDOT proposal before Council, they will still have a failed intersection going into and out of BRAC 133. Proposal F represents failure and they have not improved the problem with the expenditure of \$100 million. They have no effective way into and out of BRAC, even

after the expenditure of the \$100 million. She said it should not go forward with a proposal until it can project success from the proposal.

(h) Julie Crenshaw Van Fleet, 26 Wolfe Street, spoke of the work sessions between the Planning Commission, City Council and Planning staff on the waterfront plan, and said it was disappointing that no questions were asked but it was just expressed how nice it looked. She said questions were asked from the Planning Commission to the Planning staff regarding the properties that were involved, but she didn't think everyone was all for the plan and it was a misrepresentation to the Planning Commission and to the public to be saying that. While it may say they are interested in residential and quality of life, that is at the bottom of the list and is the last thing that was mentioned. When it gets a list of things to be fixed, flooding should be at the top of the list and not the bottom.

OTHER

[3. Presentation by the Virginia Department of Transportation \(VDOT\) and Consideration of the City Staff Report on the Proposal from the Virginia Department of Transportation to Construct a High Occupancy Vehicle \(HOV\) Ramp \(Alternative F\) at Seminary Road and I-395.](#)

Mr. Lerner, Deputy Director of Transportation and Environmental Services, made introductory remarks.

Mr. Tom Fahrney, VDOT BRAC Coordinator, introduced Mike Snare, with Mega Project Consulting Team. Mr. Fahrney made a presentation of the Mark Center component of Secretary Connaughton's letter concerning the package of improvements for the I-95/I-395 corridor and responded to questions of City Council. Mr. Snare also responded to questions of City Council.

In response to a question from Vice Mayor Donley regarding the funding of the HOV ramp at Seminary Road, Mr. Fahrney noted that Secretary Connaughton, in his letter to localities, makes the commitment to advance the project and to making it a reality.

WHEREUPON, upon motion by Vice Mayor Donley, seconded by Councilman Fannon and carried unanimously, City Council: 1. endorsed the recent action by the Virginia Department of Transportation (VDOT) to advance implementation of a High Occupancy Vehicle (HOV)/transit ramp Alternative F at Seminary Road and I-395; and 2. indicated that Council also concurs with the elimination of Alternative G from further analysis. The voting was as follows:

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

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR

Planning Commission

4. SPECIAL USE PERMIT #2010-0078 4536-4598 EISENHOWER AVENUE CLAREMONT INVESTORS, LLC Public Hearing and Consideration of a request to extend an expiration date of an existing special use permit (SUP #2003-0118); zoned OCM (100)/Office Commercial Mixed Use (100). Applicant: Claremont Investors, LLC, represented by M. Catherine Puskar, attorney PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated February 12, 2011 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 2/22/11, and is incorporated as part of this record by reference.)

5. SPECIAL USE PERMIT #2010-0082 1012 KING STREET RESTAURANT Public Hearing and Consideration of a request to operate a restaurant; zoned KR/King Street Retail. Applicant: Boccato, LLC, represented by Rob Shelton PLANNING COMMISSION ACTION: Recommend Approval w/amendments 6-0

(A copy of the Planning Commission report dated February 12, 2011 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 2/22/11, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

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

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

The voting was as follows:

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

Concerning docket item #5, Councilwoman Pepper noted that the building is boarded up and makes a poor presentation. She asked if there was any regulation or policy that concerns boarded-up buildings and she asked staff to look into it.

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

6. [Public Hearing on a Report of the City Council Naming Committee on the Proposal to Name the City Park at 3500 Jefferson Davis Highway in Honor of Ruby Tucker. \(#8, 2/8/11\)](#)

(A copy of the City Manager's memorandum dated February 1, 2011, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 6; 2/22/11, and is incorporated as part of this record by reference.)

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

(a) Rosa Byrd, 203 Wesmond Drive, speaking on behalf of the Lynhaven Citizens Association and herself, spoke in favor of the Naming Committee's recommendation.

(b) Jeanette Spicer, 201 Wesmond Drive, spoke in favor of the Naming Committee's recommendation.

(c) Eugene Tucker, 254 Lynhaven Drive, spoke in favor of the Naming Committee's recommendation.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Fannon and carried unanimously, City Council closed the public hearing and adopted the report of the City Council Naming Committee and approved the Naming Committee's recommendation to name the park located at 3500 Jefferson Davis Highway Ruby Tucker Park. The voting was as follows:

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

7. [TEXT AMENDMENT #2011-0001 VARIANCE STANDARD Public Hearing and Consideration of an amendment to the zoning ordinance to revise the standard for the grant of a variance, consistent with Virginia law. Staff: Planning and Zoning. PLANNING COMMISSION ACTION: Recommend Approval w/amendments 6-0](#)

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

(A copy of the Planning Commission report dated February 12, 2011 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 2/22/11, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Donley, seconded by Councilwoman Hughes and carried 6-0, City Council approved the Planning Commission recommendation. The voting was as follows:

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

8. [TEXT AMENDMENT #2011-0003 PROHIBITED USES Public Hearing and Consideration of changes to the zoning ordinance, including to the NR zone and the Mount Vernon Overlay Zone to clarify that pawn shops, check cashing and payday loan businesses are prohibited and to add title loan companies to the group of prohibited uses. Staff: Planning and Zoning. PLANNING COMMISSION ACTION: Recommend Approval 6-0](#)

(A copy of the Planning Commission report dated February 12, 2011 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 2/22/11, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Donley and carried 6-0, City Council approved the Planning Commission recommendation. The voting was as follows:

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

9. [DEVELOPMENT SPECIAL USE PERMIT #2010-0028 SPECIAL USE PERMIT \(TMP\) #2011-0002 800 NORTH MADISON STREET THE MADISON Public Hearing and Consideration of amendments to a previously approved development special use permit, with site plan, to make a series of changes, a decrease in retail spaces; an increase in residential units; a decrease in the number of parking spaces; revisions to amenities; revisions to green building requirements; changes to the roof treatment, changes to the configuration and design of courtyards, building facades, and streetscape, and an amendment to the transportation management plan. Applicant: EQR-Madison & Henry, LLC by Duncan Blair, attorney PLANNING COMMISSION ACTION: DSUP: Recommend Approval 6-0 SUP: Recommend Approval 6-0](#)

(A copy of the Planning Commission report dated February 12, 2011 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 2/22/11, and is incorporated as part of this record by reference.)

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

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

(a) Duncan Blair, 524 King Street, attorney representing the applicant, spoke in favor of the request.

(b) Michelle Saylor, 1113 Wythe Street, representing the Braddock Lofts HOA, spoke in support of the request.

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

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

ORDINANCES AND RESOLUTIONS

[10. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend and Reordain Section 13-1-17 \(Indecent Exposure\) of Chapter 1 \(General Offenses\), Title 13 \(Miscellaneous Offenses\) of the Code of the City of Alexandria, Virginia, 1981, as Amended to Specifically Exempt Breastfeeding from the Ordinance Regarding Indecent Exposure. \(#9, 2/08/11\) \[ROLL-CALL VOTE\]](#)

(A copy of the City Manager's memorandum dated February 3, 2011, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 10; 2/22/11, 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; 2/22/11, 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; 2/22/11, and is incorporated as part of this record by reference.)

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

(a) Diana Karczmarczyk, 6232 Ridge Pond Road, Apt. L, Centreville, representing the Childhood Obesity Action Network, the breastfeeding promotion committee, spoke in favor of the proposed ordinance.

(b) Brian Moran, 3700 Duke Street, chair, Partnership for a Healthier Alexandria, spoke in favor of the ordinance.

(c) Richard Merritt, 2729 Franklin Court, acting chair, Public Health Advisory Commission, said the Commission has no official position on the amendment, as they were not able to convene the Commission in the short period of time but will meet formally this Wednesday. Mr. Merritt said his sense of the Commission is that it is unofficially in support of programs that support breastfeeding and for the ordinance itself.

(d) Gina Ciagne, 333 N. Fairfax Street, senior director, breastfeeding relations, Lansinoh Laboratories, spoke in favor of the proposed ordinance.

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

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

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Donley and carried unanimously by roll-call vote, City Council adopted the ordinance to specifically exempt breastfeeding from the ordinance regarding indecent exposure. The voting was as follows:

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

The ordinance reads as follows:

ORD. NO. 4706

AN ORDINANCE to amend and reordain Section 13-1-17 (INDECENT EXPOSURE) of Chapter 1 (GENERAL OFFENSES) ,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 Section 13-1-17 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 13-1-17 Indecent exposure.

It shall be unlawful for any person to knowingly, voluntarily and intentionally appear in public or in a public place or in a place open to the public, or open to public view in a state of nudity, or to employ, encourage or procure another person to so appear. Any person violating the provisions of this section shall be guilty of a class 1 misdemeanor. As used herein, "state of nudity" means a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple.

Nothing contained herein shall be construed to apply to the breastfeeding of a child in a public place, the exhibition, presentation, showing or performance of any play, ballet, drama, tableau, production or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher learning or other similar establishment which is primarily devoted to such exhibitions, presentations, shows or performances as a form of expression of opinion, communication, speech, ideas, information, act or drama as differentiated from commercial or business advertising, promotion or exploitation of nudity for the purpose of advertising, promotion, selling or serving products or services or otherwise advancing the economic welfare of a commercial or business enterprise such as a hotel, motel, bar, nightclub, restaurant, tavern or dance hall.

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

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR

Planning Commission (continued)

None.

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

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THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Vice Mayor Donley, seconded by Councilman Smedberg and carried unanimously,

