

From: Herve Aitken via Call.Click.Connect. <CallClickConnect@alexandriava.gov>
Sent: Wednesday, May 25, 2016 8:45 AM
To: City Council; City Council Aides; Jackie Henderson; Call Click Connect; Gloria Sitton
Subject: Call.Click.Connect. #97583: Mayor, Vice Mayor, City Council Madam Mayor and Council Members,I wa

Dear **Call.Click.Connect.** User

A request was just created using **Call.Click.Connect.** The request ID is 97583.

Request Details:

- Name: Herve Aitken
- Approximate Address: No Address Specified
- Phone Number: 703-739-6738
- Email: haitken211@gmail.com
- Service Type: Mayor, Vice Mayor, City Council
- Request Description: Madam Mayor and Council Members,

I want to thank you for all you do for Alexandria. I sat through several hours of last night's hearing mesmerized by the detail you immersed yourselves into in discussing various topics, particularly the Waterfront project.

Secondly, I would like to thank you for your tireless efforts to pass the Ethics Code and Pledge last night. While one could nit-pick Council about not holding a per se public hearing, I believe passing it was the right thing to do. Most importantly, I was impressed and pleased by the improvements you made in the language of the Code and Pledge. This is especially so for Mr. Lovain's improvements to City Attorneys' paragraph both in content and placement near the end. If called upon, I was going to suggest keeping part of City Attorney's language, but Mr. Lovain's language was better than mine.

Now, for the hard part, making ethics a part of every analysis and decision you make. After last night's hearing, I am confident you will all pass with flying colors.

Herve Aitken

- Expected Response Date: Wednesday, June 1

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From: Frank Shafroth via Call.Click.Connect. <CallClickConnect@alexandriava.gov>
Sent: Monday, May 23, 2016 2:19 PM
To: City Council; City Council Aides; Jackie Henderson; Call Click Connect; Gloria Sitton
Subject: Call.Click.Connect. #97428: Mayor, Vice Mayor, City Council May 23, 2016 Dear Madam Mayor & Membe

Dear **Call.Click.Connect.** User

A request was just created using **Call.Click.Connect.** The request ID is 97428.

Request Details:

- Name: Frank Shafroth
- Approximate Address: No Address Specified
- Phone Number: 7039938560
- Email: fshafrot@gmu.edu
- Service Type: Mayor, Vice Mayor, City Council
- Request Description: May 23, 2016

Dear Madam Mayor & Members of the Council:

I am writing to express concern with regard to the documents just released for your review and action tomorrow evening. As a member appointed to the Ethics review group, and as someone who has helped oversee three different ethics guidebooks for Virginia local elected officials, it was disappointing to read suggestions that risk Dillon rule challenges—and purport to claim that Alexandria's ethics code ought to be subordinate to federal and state law—two levels of government to which ethical subordination should not be any municipality's aspiration.

Ethical behavior—especially for those placed by citizens in positions of trust—is fundamental to leadership: it is about demonstrating integrity—and behaving and acting with integrity, rather than submerging citizens and taxpayers with dense layers of legalese.

A key concern is the documents appear to turn ethical leadership on its head: how can the city aspire if the City Attorney has recommended exempting the city's own elected leaders from coverage? Ethical leadership has to commence at the top.

If, as we originally understood, the Council's goal is to elevate the importance and recognition of integrity and ethics, it would seem especially important that any final action ensure that a revised code apply to the City Manager and City Clerk. A revised code certainly ought to apply, moreover, to our city's boards, commissions, etc. I certainly know that as a former Chair of the Alexandria Economic Opportunity Commission and former President of the Alexandria Soccer Association, our respective group commitment the city's most disadvantaged and discriminated against—and our city's children—meant that integrity was a fundamental foundation to any action we considered or undertook. That was especially important at a time when there was such significant discrimination against single female heads of household in the city—and our soccer association was not open to children with any kind of disability.

Any final action ought, I believe, to clear up confusion in the document between “advisory” and “aspirational.” Clearly, our recommendations were based on the premise that each and every Member of the Council—and each person in a leadership position in our city, ought to “own” integrity—and find ways to help foster the value of ethics in every part of our community: not for 30 minutes a year, but at all times, rather than a system—such as is used by Congress and in the Commonwealth—where an enormous industry has sprung up to use lawyers like myself to figure out ways to get around the ethics rules. We recommended the obverse: how to embody and incorporate ethics as a fundamental part of governance—and as a fundamental way in which citizens in our city perceive its ethos—not a set of compliance-based rules which assumes the code would be read to establish mandatory disclosure and recusal rules.

I appreciate your interest in and recognition of the importance of ethics; now I very much hope you will act to amend the final product.

Sincerely,

Frank Shafroth
Director
Center for State & Local Leader

- Restoring Public Trust in Governance
- Attachment: [TheEthicalGPSNavigatingEverydayDilemmas.pdf](#)
- Expected Response Date: Monday, May 30

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From: Jackie Henderson
Sent: Monday, May 23, 2016 1:44 PM
To: Gloria Sitton
Subject: Fwd: FYI: Email from Mark Williams re Ethics Docket Item

Jackie M. Henderson
City Clerk and Clerk of Council
703-746-3975

Begin forwarded message:

From: Mark Jinks <Mark.Jinks@alexandriava.gov>
Date: May 23, 2016 at 11:01:11 AM CDT
To: Allison Silberberg <allison.silberberg@alexandriava.gov>, Justin Wilson <justin.wilson@alexandriava.gov>, John Chapman <john.taylor.chapman@alexandriava.gov>, "Willie Bailey (w.baileyforcouncil@gmail.com)" <w.baileyforcouncil@gmail.com>, Timothy Lovain <timothy.lovain@alexandriava.gov>, Del Pepper <Del.Pepper@alexandriava.gov>, Paul Smedberg <Paul.Smedberg@alexandriava.gov>
Cc: James Banks <James.Banks@alexandriava.gov>, Jackie Henderson <Jackie.Henderson@alexandriava.gov>, Jean Kelleher <Jean.Kelleher@alexandriava.gov>, Noraine Buttar <Noraine.Buttar@alexandriava.gov>
Subject: **FYI: Email from Mark Williams re Ethics Docket Item**

FYI: related to the Tuesday night docket ethics docket item

Begin forwarded message:

From: Call.Click.Connect. <CallClickConnect@alexandriava.gov>
Date: May 23, 2016 at 09:13:45 EDT
To: <markcwilliams@yahoo.com>
Subject: **Call.Click.Connect. #97368: Alexandria Vice Mayor Justin Wilson**

Dear Mark Williams,

Thank you for contacting the City of Alexandria. Your request has been submitted. The details of your request are outlined below. If you wish to update this request or provide additional information, please call 703.746.HELP (4357), Monday – Friday, 8 a.m. to 5 p.m. (except **closed** 2 p.m. to 4 p.m. on the third Wednesday of each month), and a Call.Click.Connect. representative will assist you.

Since you were **not** logged in with MyAlex, you will not be able to check the status of this ticket online.

Request Details:

- ? Approximate Address: No Address Specified
- ? Request ID: 97368
- ? Request Type: Alexandria Vice Mayor Justin Wilson
- ? Request Description: Re: R. 2707 (Council Docket No. 14-5351) May 24, 2016 Meeting

Following Council's rushed enactment of Resolution 2707 and hortatory adoption of sweeping "ethics" and related mandates, Council has now received the City Attorney's legal review of the text and implications of R. 2707, and Council is scheduled to deliberate on the results of the R. 2707 Committee's work at the May 24, 2016 meeting.

The City Attorney's memorandum reflects a conservative, reasoned evaluation of black-letter risks. Even relying on this conservative approach, the City Attorney properly opines that the R. 2707 Committee's Code and Pledge—

- Are not explicitly "aspirational" or "voluntary." The City Attorney's findings are accurate and fully consistent with the actual text of the R. 2707 Code and Pledge. Council should recognize that the R. 2707 Committee's contrary, unwritten commentary to Council in April was plainly inaccurate.
- Are not consistent with, and may be in excess of, the limited legislative authority possessed by Council under the Dillon Rule and applicable rulings of Virginia's appellate courts.
- Are not consistent with Virginia statutes defining and addressing applicable conflict-of-interest matters.
- Impose implied disclosure requirements that cannot readily be reconciled with the requirements of law.
- As to certain City Boards and Commissions, are not consistent with applicable Virginia statutes.
- Apply broad, undefined, and disputable "transparency" requirements that could be fodder for confusion and legal challenge.

The City Attorney's summary of legal risks is properly confined his comments to strictly legal issues. Council owes it to the public to carefully consider the City Attorney's guidance, and to further consider the practical and political risks that the adoption of the hastily-drafted, confusing text of R. 2707 has created:

- The application of the Code and Pledge to an undefined universe of "appointed officials" could result in the City Manager, City Attorney, and City Clerk being subject to uncertain requirements to release information that is immune — typically for very good reasons — from public revelation.
- Taken in its entirety, applying the Code and Pledge to the City Attorney and his staff could accomplish an unintended waiver of attorney-client

privilege, placing every lawyer in City government in an impossible conflict situation, and reducing the granularity and quality of the legal advice on which Council must rely.

- Applying the Code and Pledge to City Boards and Commissions imposes a substantial disincentive to public participation, especially with respect to those Boards and Commissions that:
 - o Deal with non-public information;
 - o Execute State statutes;
 - o Engage in adjudicatory activities;
 - o Engage in rulemaking activities; and/or
 - o Act with respect to public finance matters or City obligations.
- Many of the R. 2707 Committee's members sought to affirmatively re-constitute the Committee as an investigative and enforcement panel.
- The R. 2707 Code and Pledge, as drafted by Council's R. 2707 Committee, impose needless, burdensome, condescending "outreach" requirements that are as impractical as they are substantively valueless.

R. 2707 addresses substantive matters that are often subject to dispute. Council adopted R. 2707 in massive haste. Council has since acknowledged that, in material part, its draft omitted fundamental details. Informal (and admittedly non-scientific) polling conducted by the Alexandria Times makes clear that there simply is no groundswell of public support for R. 2707. Council's R. 2707 Committee failed utterly to seek and deploy the legal and technical guidance that City staff attempted to offer. And, as Council now knows, the proceedings of the R. 2707 Committee were characterized by frolic, bizarre departures from Council's instructions, proposals that disregard both merit and method.

The R. 2707 Committee product is insulting to City commissioners and City staff. Tuesday's meeting is the Council's last clear chance to terminate this unproductive, meandering exercise. The City needs transit, schools, housing, and money. The City needs no false "ethics" distraction, especially a distraction that seems calculated to appease one individual and stifle political participation.

Mark C. Williams
markcwilliams@yahoo.com
Personal and Unofficial

- ? Phone Number: No Phone
- ? Email: markcwilliams@yahoo.com

From: Herve Aitken via Call.Click.Connect. <CallClickConnect@alexandriava.gov>
Sent: Sunday, May 22, 2016 10:12 AM
To: City Council; City Council Aides; Jackie Henderson; Call Click Connect; Gloria Sitton
Subject: Call.Click.Connect. #97332: Mayor, Vice Mayor, City Council As a member of Ad Hoc Code of Conduct Re

Dear **Call.Click.Connect.** User

A request was just created using **Call.Click.Connect.** The request ID is 97332.

Request Details:

- Name: Herve Aitken
- Approximate Address: No Address Specified
- Phone Number: 703-739-6738
- Email: haitken211@gmail.com
- Service Type: Mayor, Vice Mayor, City Council
- Request Description: As a member of Ad Hoc Code of Conduct Review Committee, I was deeply disappointed in City Attorney's Legal Analysis of Draft Code of Ethics and Conduct/Ethics Pledge. By viewing the Ethics Code as a set of compliance based rules, he missed the point. The Ethics Code (and Pledge) are not law and ,therefore, cannot conflict with Commonwealth's Conflict of Interest Act.

Ethics is the continuous effort of studying our own moral beliefs and our moral conduct, and striving to ensure that we, and the institutions we help to shape, live up to standards that are reasonable and solidly-based. Ethics is not the law and there is no conflict.

Ethics cannot be subordinate to law as stated in City Attorney's added remarks. These remarks should be deleted.

Three appointed officials including City Attorney, City Manager and City Clerk need to be included in Code. Others need not be included.

Ethics is aspirational as was Ad Hoc Code of Conduct Review Committee's Code. Ethics is also continuous and should encompass every analysis and decision by this Council. As such, Council should appoint an Ethics Advisor to respond only to questions by Mayor and Council Members to render private ethics advice. This is my personal view.

Herve Aitken

- Expected Response Date: Monday, May 30

Please take the necessary actions in responding, handling and/or updating this request at the **Call.Click.Connect. staff interface.**

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From: Mark Abramson via Call.Click.Connect. <CallClickConnect@alexandriava.gov>
Sent: Sunday, May 22, 2016 12:10 PM
To: City Council; City Council Aides; Jackie Henderson; Call Click Connect; Gloria Sitton
Subject: Call.Click.Connect. #97336: Mayor, Vice Mayor, City Council Mayor Silberberg, Vice Mayor Wilson, and

Dear **Call.Click.Connect.** User

A request was just created using **Call.Click.Connect.** The request ID is 97336.

Request Details:

- Name: Mark Abramson
- Approximate Address: No Address Specified
- Phone Number: 571-527-0137
- Email: mark.abramson@comcast.net
- Service Type: Mayor, Vice Mayor, City Council
- Request Description: Mayor Silberberg, Vice Mayor Wilson, and members of the City Council:

I served on the Ad Hoc Committee to Develop a Code of Ethics for the City Council. Overall, it was a good experience and I was glad to have the opportunity to participate with this top-notch group of citizens in drafting a Code of Ethics for the City Council. However, I would like to express my disappointment on several aspects of the subsequent follow-up to our recommendations:

1. The amount of time it took the City Attorney to develop his response to our Draft Code. I had anticipated that the City Attorney would have come prepared to discuss the Code at the City Council meeting at which our Chair George Foote presented our recommendations. Instead of a quick response which I thought would be forthcoming after the City Council meeting, it took over six weeks to provide the City Council comments on the proposed Code.

2. The lack of opportunity for the Ad Hoc Committee or the Committee Chair to comment on the City Attorney's Legal Analysis. Speaking personally, I believe the Memo went far beyond what our Committee had intended. I think the City Attorney made this exercise much more complicated than anybody on the Ad Hoc Committee had anticipated. While we were not trying to write a legal document (per our "instructions" from the City Council), our draft has been treated as a legal document which was not our intent. We were charged with writing a Code of Ethics which I think we did. We reviewed many other Codes and felt very comfortable with the "aspirational" document which we prepared which has been reviewed, however, as a "compliance" document.

3. The tone of the City Attorney's Memo. I am very concerned that the tone of the Memo might discourage City Council members from approving the Code of Ethics as revised. As noted above, this review process was much more complicated than I personally had anticipated. It was not our intent to put any members of the City Council in "jeopardy" of future legal problems. Our intent was the exact opposite. The impression, however, in the Memo is that there are indeed potential legal problems involving the Code. In my opinion, these concerns were dramatically overstated in the Memo.

4. I do not feel that the proposed opening paragraph is necessary or adds anything to the proposed Code. I think it is safe to say that the entire committee never thought that we were writing a code which would "override" federal, state, or local law. I thought, as did many of my colleagues on the committee, that this was obvious. In our research on other codes in other jurisdictions, we never encountered such language in other codes. The proposed new language — especially as the leading paragraph — seems to be out of place in the document and written very legalistically — in contrast to the remainder of the document.

On a more positive note, I want you to know that I thought our discussion with the City Council about the Code was very helpful and very constructive in tone. I fully agreed with all the questions posed by the City Council. I

wish, however, that we might have an opportunity for a longer discussion of the Code and potential revisions to it. We clearly did not have an opportunity that evening to address any of the issues subsequently raised by the City Attorney.

I hope the above comments are helpful. I would strongly encourage the City Council to approve the draft Code submitted by Ad Hoc Committee and perhaps schedule a public meeting on the Code.

Sincerely,

Mark A. Abramson

- Expected Response Date: Monday, May 30

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From: Randolph Sengel via Call.Click.Connect. <CallClickConnect@alexandriava.gov>
Sent: Sunday, May 22, 2016 2:40 PM
To: City Council; City Council Aides; Jackie Henderson; Call Click Connect; Gloria Sitton
Subject: Call.Click.Connect. #97343: Mayor, Vice Mayor, City Council To the Mayor and Members of City Council

Dear **Call.Click.Connect.** User

A request was just created using **Call.Click.Connect.** The request ID is 97343.

Request Details:

- Name: Randolph Sengel
- Approximate Address: No Address Specified
- Phone Number: 703-549-4870
- Email: randolphsengel@comcast.net
- Service Type: Mayor, Vice Mayor, City Council
- Request Description: To the Mayor and Members of City Council:

I write to offer some thoughts regarding the consideration by Council of the ethics code and pledge on the docket for Tuesday, May 24.

During my tenure in the Commonwealth's Attorney's Office from 1979 to 2013, I had the pleasure of serving concurrently for several years with the current City Attorney James Banks and his staff. I always found his legal analysis on issues, and the advice of his staff on many difficult cases, to be insightful, well informed, and legally sound and well reasoned. I find that his comments on the proposed ethics pledge and code to be of that quality, and commend him and his staff for taking the time and effort to provide a thorough analysis of the issues.

Having served as a member of the ad hoc committee to make recommendations for this code and pledge, I believe that we carried out our mandate appropriately, and I recognize that the final decision regarding our efforts is in your hands. I respectfully disagree with the chair's opinion that Mr. Bank's legal analysis is "incomplete and wrong". I believe that his comments accurately recognize issues that are worthy of consideration by Council in considering whether or not to adopt his revisions of the pledge and code. I would urge Council to accept his recommendations and proceed accordingly.

Respectfully Submitted,

Randolph Sengel
randolphsengel@comcast.net

- Expected Response Date: Monday, May 30

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CITY OF ALEXANDRIA
CODE OF ETHICS AND CONDUCT11
5-24-16

Recognizing that persons holding public office have been given a public trust and that the stewardship of such office demands that performance be at the highest level of ethical and moral conduct, the Alexandria City Council adopts this Code of Ethics and Conduct. To honor the public trust and serve with integrity, civility, and impartiality, the Mayor and members of City Council will:

1. Provide the highest quality of service to the public, acting in a way that is conscientious, diligent, and transparent.
2. Perform the functions of the office with integrity, avoiding any improper use or influence of the office.
3. Not act on a matter in which a conflict of interest exists, and be diligent in avoiding even the appearance of a conflict of interest by disclosing same and acting in accord with the principles underlying this Code.
4. Behave in a manner that inspires public confidence.
5. Treat the public, city staff, and fellow public officials with professionalism, courtesy, and respect.
6. Serve the public interest by upholding the letter and the spirit of City, Commonwealth, and Federal statutes, regulations, and policies.

To provide leadership in sustaining an ethical culture in Alexandria, the Mayor and members of City Council will:

- a. Participate in a professional development activity on ethical leadership that could include a class, workshop, conference or as part of a Council retreat at least once per term.
- b. Engage, at least once per term, in community dialogue of ethics in governance via activities such as:
 - i. Leading a class at a local school;
 - ii. Facilitating discussion at a community association or group; or
 - iii. Incorporating ethical discussions into already existing community speaking opportunities.
- c. Communicate to all boards and commissions the importance of ethics in conducting city business.
- d. Include in a public hearing during each term a review of the effectiveness of this code of ethics and conduct.
- e. Ensure that the City website is updated with listings of relevant ethics materials to engage the Alexandria public.

This Code and its associated Ethics Pledge are aspirational, not legal, in nature. They call Alexandria officials to the highest levels of ethical behavior rather than prescribing a legal minimum of ethical behavior. As such, they do not supersede federal, state, or local law, they do not confer any additional duties beyond those required under existing law and they do not confer any right or cause of action that does not apply under existing law. They are intended to inspire Alexandria officials to make Alexandria a national model of ethical conduct.

The Mayor and members of City Council will work together to implement and monitor this Code of Ethics and Conduct and make changes as needed.

Allison Silberberg, Mayor

Justin Wilson, Vice Mayor

Willie F. Bailey, Sr., Councilman

John T. Chapman, Councilman

Timothy B. Lovain, Councilman

Redella S. "Del" Pepper, Councilwoman

Paul C. Smedberg, Councilman

CITY OF ALEXANDRIA
ETHICS PLEDGE

11
5-24-16

[Pledge to be made/signed by the mayor and all members of Council when taking the oath of office]

1. I understand that as a City representative, I am entrusted with protecting and preserving the integrity of the government of the City.
2. I will honor this trust by:
 - upholding the City of Alexandria Code of Ethics and Conduct;
 - putting the public interest first;
 - conducting myself at all times in a manner that brings credit to the City;
 - serving with integrity, impartiality and transparency;
 - fostering an ethical culture; and
 - taking no action that will result in, and avoiding even the appearance of, personal gain or conflict of interest.
3. I will communicate openly and civilly, listening to all views, seeking common ground as a starting point, and being respectful even in areas of disagreement.