EXHIBIT NO. 1

10.a
11-15-03
~~10-28-03~~

City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 22, 2003

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER

SUBJECT: RECEIPT OF PROPOSED CITY LEGISLATIVE PACKAGE FOR THE 2004 GENERAL ASSEMBLY SESSION

ISSUE: Receipt of proposed City legislative package for the 2004 General Assembly Session.

RECOMMENDATION: That City Council:

(1) receive the proposals for the City's 2004 Legislative Package;

(2) schedule the legislative package proposals for public hearing on Saturday, November 15;

(3) schedule the proposed Charter amendments (items 1.B,1.C, 1.G, and 1.H) for public hearing on Saturday, November 15; and

(4) schedule adoption of the legislative package for Tuesday, November 25, following Council's work session with the General Assembly delegation.

DISCUSSION: Over the past several months, legislative and funding proposals for the City's 2004 Legislative Package have been submitted by Council Members, City departments, and boards and commissions. Thirty-four such proposals are described below for your consideration as 2004 legislative package proposals. Section 1 contains legislative proposals that staff or a City board or commission recommends for introduction by our delegation; Section 2 contains legislative proposals that staff recommends that the delegation support; and Section 3 includes proposals that staff recommends that the delegation oppose. All the proposals are also summarized in the list entitled "City of Alexandria 2004 Legislative Package Proposals" (Attachment 1).

The 2004 General Assembly Session will be a "long" 60-day Session, beginning January 14, and ending March 13. On December 17, 2003, Governor Mark Warner will submit his proposed budget for the biennium beginning July1, 2004, and ending June 30, 2006 (and he will likely recommend some minor adjustments to the current biennial budget, which controls funding through June 30, 2004). Continuing the pattern of the last several years, much of the Session's work will be devoted to passage of a biennial budget that will be based on insufficient resources

for expanding needs. Budget issues will likely be one of the City's primary concerns next Session, since significant state assistance is at stake.

Legislative Director Bernard Caton will represent the City in Richmond again this year, and we will report to you regularly on the status of legislative and budget issues that arise during the 2004 General Assembly Session.

1. Requests for Legislation to Be Proposed

1.A. Increasing Affordable Housing in New Developments (Councilmen Gaines and Krupicka)

The lack of affordable housing is a critical issue in the City of Alexandria. The existing stock of affordable housing is aging, and new housing is usually not affordable for individuals with moderate incomes. For several years now, the City has explored new ideas for increasing affordable housing. One way the City can increase its affordable housing units is by offering developers incentives for including affordable units within their developments.

The General Assembly has adopted two State Code provisions that allow localities to provide increased density (thereby lowering land costs per housing unit) to developers who agree to provide affordable housing units in their developments. The Code provision under which the City currently falls (§15.2-2305) provides strict formulas for the amount of additional density that localities can give in exchange for specified percentages of affordable housing. A more flexible Code provision (§15.2-2304) applies to several counties, including Arlington. This provision allows the locality, as part of a special use permit process, to determine the amount of increases in density that it will give a developer in exchange for additional affordable housing.

It is recommended that legislation be proposed that would give the City the more flexible zoning authority in §15.2-2304 that has already been granted to Arlington and other counties.

1.B. Increasing Affordable Housing for City and School Employees (Councilmen Gaines and Krupicka)

City employees face the same difficulties as others in being able to afford to purchase housing within Alexandria. The average City employee earns about $52,000 annually. As of January 1, 2003, the average assessed value for a single family home was $409,613, and the average assessed value for a condominium was $177,079. Even if employees are able to pay their monthly mortgage payments, they are often unable to afford the down payment and closing costs related to the purchase.

The City receives several benefits from having its employees live here. They often become more familiar with City issues if they reside here as well as work here. Employees who live in the City have shorter commutes, or can more easily walk or take transit to work, thereby improving the

City's (and the region's) air quality. And City employees who live in the City are less likely to change jobs in an effort to shorten their commutes, thus saving the City money on recruiting and training new employees.

In the 2002 Session, Arlington County had legislation enacted which authorizes the County to provide grants to County employees who purchase homes within Arlington. The County's "Live Near Your Work" Program provides grants (in the form of loans which are forgiven after three years) to first-time home buyers who are County employees, or County employees who own homes outside the County but want to purchase homes in Arlington. The program is not income-based, although a majority of participants have been low-to moderate-income employees. Each participant is given funding equal to one percent of the average purchase price for homes in the County (currently $3200). In FY 03, its initial year, $120,000 was appropriated to and spent by the program ($60,000 from the County and $60,000 from Arlington Public Schools). An equal amount of County and School funding has been appropriated for the current fiscal year.

It is recommended that legislation be proposed that authorizes Alexandria to initiate a program similar to the one in Arlington. Staff recommends that this proposal be included in revisions to the City Charter proposed at the 2004 General Assembly Session.

1.C. Revisions to the City Charter Pertaining to Zoning

The Charter of the City of Alexandria sets out a process for amendments to its zoning ordinance that is different than the general law process in Virginia. The City process involves two steps: first, the Planning Commission and the City Council must approve a change in the zoning or a change in the text of a zoning ordinance; after this, in a separate action at a later meeting, City Council actually amends the zoning ordinance. Because of the unique nature of this process and the additional public notice and participation that is a part of this process, staff recommends that §9.12.1 of the City Charter be amended to state that it preempts all general law provisions governing the initiation of zoning amendments. The City had assumed this to be the case until the Alexandria Circuit Court recently ruled (Ace Temporaries v. Alexandria) that the City must follow all Charter *and* general law provisions.

Because of Alexandria's unique amendment process, staff also recommends that § 9.12 of the City Charter be amended to clarify that any written or other notice requirements in the general law that are applicable to rezonings or text amendments apply only at the rezoning or text amendment stage of the process, and do not have to be repeated prior to ordinance adoption. If this clarification were adopted, the City would continue to provide notice of rezoning and text amendment ordinances as it does for all ordinances.

Finally, staff recommends that the Charter be amended to state that the zoning penalty authority conferred on the City by the Charter preempts any general law limitations on zoning penalties. The intent here is to preclude in the future the argument that the lower civil and criminal zoning penalty caps in general law restrict the City's Charter authority to specify zoning penalties. It is

recommended that a charter bill be proposed which makes these three changes to the City Charter.

1.D. Revising Virginia's Hate Crimes Laws (Human Rights Commission)

Virginia law currently classifies the damaging of another's property as a crime, and increases the severity of the penalty if the action is motivated by religious, racial, or ethnic animosity (Code of Virginia, §18.2-121). In past Sessions of the General Assembly, bills have been introduced to extend the provisions of these statutes to cover crimes that are directed against individuals because of their gender or sexual orientation. The City of Alexandria has supported this legislation, but the General Assembly has refused to pass it.

The Alexandria Human Rights Commission has asked that the City ask its legislative delegation to introduce legislation to amend hate crimes laws so that they also apply where the crime is motivated by the victim's sexual orientation, or the perception of the victim's sexual orientation.

1.E. Additional Funding for the Mental Retardation Waiver Program (Community Services Board)

In Alexandria and throughout Virginia, many individuals who are mentally retarded are cared for by their parents. While they are children, these people are given services by the Alexandria City Public Schools and the Alexandria Community Services Board (through the City's Department of Mental Health, Mental Retardation, and Substance Abuse). These services are paid for jointly by the City and the State. When these individuals with mental retardation become adults, they are no longer eligible under state law for many of these services. Their parents generally continue to care for them at home. As these parents age, it becomes increasingly difficult for them to care for their adult children without additional assistance. Once the parents die, if there is no other care giver available, the children must find some other community-based services (e.g., group homes) or be institutionalized.

In recent years, the state has provided additional funding for community-based services for some of these persons who are mentally retarded. (This funding stream is known as the Medicaid waiver program for persons who are mentally retarded.) Current funding does not cover all persons who need these services -- about 800 persons across Virginia need Medicaid waiver funding. The Alexandria Community Services Board generally has a waiting list of 3 to 6 individuals who could benefit from this program. The estimated cost for each individual who enters this program is $50,000 annually.

It is recommended that budget amendments be introduced to increase funding for the state Medicaid waiver program for persons who are mentally retarded.

1.F. Privileged Communications: Sexual Assault & Domestic Violence Victims (The Commission for Women)

The Alexandria Office on Women has a strong and caring program in which it supplies advocates to assist victims of sexual assault and domestic violence. These victims and advocates often discuss some of the most personal and confidential information about the victim's life and the sexual assault or domestic violence directed against the victim. In recent years, these Alexandria programs, as well as similar programs around the Commonwealth, have experienced an influx of subpoenas for confidential records, or for the advocates to testify about the information they have received from the victims.

Although victims have spoken to their advocates with the belief that any information they give will be held in confidence, there is no Virginia statute that protects the confidentiality of communications between these advocates and victims. Without this confidentiality, those who have been assaulted are further victimized and their willingness to participate in the legal process may be hindered. In addition, when staff members are subpoenaed, the efficacy of these advocates is severely compromised. Furthermore, responding to subpoenas requires advocates to spend scarce time researching records and testifying in court – time that should be spent in support of victims. Thirty-three other states, including North Carolina and Alabama, protect confidential communications between clients and their advocates.

The Commission for Women believes that Virginia law should protect the confidentiality of communications between victims and advocates. Since there is likely to be some opposition to such a statutory change, last year the Commission asked that a legislative study be done to educate General Assembly members about the problem, and help develop support for a bill in the future. The State Crime Commission and its Domestic Violence Subcommittee have not yet initiated this study. The Commission recommends that the City ask the Commission to do so in time to propose legislation in the 2005 General Assembly Session.

1.G. Enforcement Authority for the Human Rights Commission (Human Rights Commission)

Alexandria's Human Rights Commission hears cases of alleged discrimination by employers who often are not covered by federal or state human rights programs (i.e., employers of 15 or fewer employees). Unfortunately, the Commission has little power to discipline a violator of the City's human rights ordinance, or to award damages to an employee whose rights were violated by his employer.

The Human Rights Commission would like to remedy this shortcoming by amending § 2.06 of the City Charter, adding a new subsection (f). This amendment would state that when an ordinance expressly so provides, a person injured by a violation of the ordinance has a private cause of action against the violator, for damages proximately caused by the violation. This should be declaratory of existing law, but legal precedents are not completely clear. The Virginia Supreme Court has held that where a common law duty of ordinary care already exists, a local ordinance can supply the standard of care required to meet that duty. The court has not clearly said,

however, that an ordinance can create both a duty and a standard of care. In the opinions the Court has rendered, it has said that a locality did not intend to create a duty giving rise to a private cause of action. Other jurisdictions recognize that an ordinance can both create the duty and prescribe the required standard of care.

If this Charter change is approved, the Commission would then ask City Council to amend the human rights ordinance to state that its protections are intended not only to vindicate the public interest in suppressing discrimination, but also to benefit the class of individuals protected from discrimination, so that a violation of the ordinance gives rise to a private cause of action in a Virginia court against the violator. Such a private cause of action based on the local ordinance would fill some of the gaps in the right to sue which exist under state and federal law.

1.H. Cost of Living Increases for Council Salaries

In October 2002, City Council reviewed Council compensation practices in order to set compensation policies for the Council that would be taking office July 1, 2003. Along with recommendations for specific increases for the salaries of the Mayor and Council members, the October 2002 Council motion called for cost of living increases(COLAs), normally given on an annual basis to City employees, to be applied to salaries for the Mayor and Council members. Arlington County already gives COLAs to its Board members at the same time it gives them to County employees.

Since §3.02 of the City Charter prohibits any change in compensation from becoming effective during a Council's term of office, a Charter amendment is needed to implement Council's October 2002 recommendation.

2. Requests for Legislation to Be Supported

2.A. Education Funding (Northern Virginia Regional Position)

Alexandria and other Northern Virginia localities have paid more than their allotted share for K-12 education funding, while the state has paid less than its share. Substantial new State revenues are needed to end the sizeable shortfall in the State's contribution, and existing education programs must not be eliminated to fund this shortfall. To address this shortfall, it is recommended that the following package of proposals be supported (other Northern Virginia localities are expected to adopt similar positions):

- Rebenchmark the Standards of Quality -- The State should fully fund the costs of recalculated (or rebenchmarked) cost of achieving the Standards of Quality (SOQs), which dictate minimum staffing levels for Virginia's public schools. Further, these recalculated costs should take into account changes in student population, salary levels, and other education expenses. These cost recalculations are made every biennium and used to determine state contributions to the cost of existing K-12 public education programs. It is

estimated that the SOQ cost recalculations will require $525 million in new state funding. The Governor has said he will include these funds in his biennial budget proposal. Staff cannot estimate the amount of money City schools would receive from these new funds.[1]

- State Board of Education Revision of SOQs -- The State Board of Education has recommended that the SOQs, be amended to take into account the contemporary needs of our schools. Many of these needs are being met at the local level but, because they are not reflected in the SOQs, they are funded entirely by local governments. Should these amendments be approved and funded by the General Assembly, they could result in additional revenue for art, music, physical education, speech pathologists, technology assistants, reading specialists, and remediation specialists. The Board has estimated that this initiative would cost $324 million statewide in FY 04, and has recommended that it be phased in over several years. According to information prepared by the Board, this initiative would provide $1.26 million in additional funding for the City of Alexandria in FY 04.

- 2002 JLARC Study on K-12 Funding -- In 2002, the General Assembly's Joint Legislative Audit and Review Commission completed a study on the costs and funding of K-12 public education in the Commonwealth, and recommended a number of ways in which state funding should be increased. Most, if not all, of these recommendations, if implemented, would provide additional funding for Alexandria public schools.

- At-Risk Students -- The Virginia Municipal League (VML) has developed an initiative to significantly increase state funding for schools and students most at risk of failing the Standards of Learning (SOLs). This at-risk funding would be distributed among localities without using the Composite Index (which results in Alexandria having to match every $1 of most state education funding with at least $4 of local funding). The VML proposal would distribute these funds based on the number of a locality's free lunch students, as well as the concentration of such students, and would require the locality to provide $1 for each $4 in state funding. VML estimates the annual cost to the state for this program at $300-400 million in new money (some existing funding for similar programs would also be transferred into this program). While staff is unable to estimate the amount of money

---

[1]The full cost incurred by school divisions in complying with the SOQs is not currently funded by the state. State SOQ funds are distributed to school divisions and localities on the basis of a Composite Index which is intended to distribute funds in inverse proportion to localities' relative wealth. With some minor exceptions, Alexandria schools, like Arlington, Falls Church, and several other localities, receive from the state only $.20 of each $1.00 of SOQ costs. In addition, Alexandria and other school systems have many actual costs that the State does not recognize as required by the SOQs, and therefore does not fund at all. Alexandria schools' total budget in FY 2003 was $144.8 million. Of this, approximately 84 percent was funded by the City, 15 percent by the State, and one percent by the federal government.

which the City would receive under such a program, it would be substantial, since 51 percent of City students receive free lunches.[2]

2.B. Tax Restructuring

The 2003 General Assembly created a Commission on the Revision of Virginia's State Tax Code to recommend ways to restructure Virginia's state and local tax laws. This Commission is following up on studies and recommendations from several other legislative study groups over the last several years. In addition, Governor Warner has committed to proposing tax restructuring prior to the 2004 Session.

The City of Alexandria and many other localities have supported changes to its taxing authority in past Sessions of the General Assembly, in large part so that it would not have to rely so heavily on real property taxes. Staff will forward any gubernatorial or legislative tax restructuring proposals to Council, but recommends that it ask its legislative delegation to oppose any changes that would diminish existing local taxing authority, such as a State-imposed cap on local real property tax rates or real property tax increases, or would repeal any existing taxes without a reliable way to replace those revenues.

2.C. Revisions to the Red Light Camera Law (Northern Virginia Regional Position)

Alexandria initiated a pilot red light camera enforcement program in 1997 to reduce the number of red light violations. Under this program, a private vendor under contract with the City photographs motor vehicles that run red lights at three intersections (Patrick and Gibbon, Duke and Walker, and Seminary and Nottingham). The vehicle's owner is then identified, using Virginia Department of Motor Vehicles records, and the owner is sent a notice of violation and is required to pay a $50 fine. Under the state law, no points are assessed against a vehicle owner's driving record. This program has been very effective in helping to reduce red light violations in the City.

In recent General Assembly Sessions, legislation has been introduced to extend red light camera authority to a number of localities that do not have it,[3] and to eliminate the program's 2005 sunset provision. Staff expects such legislation to be introduced again in 2004. Without the elimination of the sunset provision, the City will not be able to continue its program beyond July 1, 2005. It is recommended that the City support legislation to eliminate the sunset provision in the red light camera law (other Northern Virginia localities are expected to adopt this or a similar position).

---

[2]This was as of October 31, 2002.

[3]Eight localities are authorized to operate red light camera programs: the cities of Alexandria, Fairfax, Falls Church, Richmond, and Virginia Beach, and the counties of Arlington, Fairfax, and Loudoun. Alexandria, Fairfax City, Falls Church, Arlington, and Fairfax County have ongoing programs, and Virginia Beach is initiating one early in 2004.

2.D. Stopping for Pedestrians in Crosswalks (Councilman Krupicka and Northern Virginia Regional Position)

Pedestrian safety is a major issue for Northern Virginia localities. The high volume of traffic often makes it difficult for pedestrians to cross roads, even at crosswalks. Current law (Va. Code § 46.2-924) requires drivers to yield to, but not stop for, any pedestrian in a clearly marked crosswalk where the legal maximum speed does not exceed 35 miles per hour. Staff from various Northern Virginia localities believe that pedestrian safety would be enhanced if localities could enact ordinances requiring drivers to stop for any pedestrian using a crosswalk at a non-signalized intersection on a road where the legal maximum speed does not exceed a given moderate speed (e.g., 30 miles per hour). Legislation to give Northern Virginia localities the authority to require drivers to stop for pedestrians in crosswalks was pursued unsuccessfully in the 2003 Session. Since pedestrian safety continues to be an issue in the region, Northern Virginia localities recommend seeking such legislation again during the 2004 Session.

It is recommended that the City continue to support this legislation.

2.E. Increase in State Motor Fuels Tax (Northern Virginia Regional Position)

Senator Martin Williams (Newport News), chairman of the Senate Transportation Committee, has publicly suggested that the statewide gasoline tax (currently 17.5 cents/gallon) be increased by five cents to provide additional funding for transportation projects.[4] A five cent increase would generate approximately $220 to $240 million annually statewide. Although staff is unable to project the exact amount of funding that would be earmarked for the City, the City could expect to see a portion of any new revenues.

Given the need for additional resources for transit and other transportation projects in the City, it is recommended that the City ask its General Assembly delegation to support any increase proposed for the state motor fuels tax. The Northern Virginia Transportation Authority and the Northern Virginia Transportation Commission are both considering this item as a part of their 2004 legislative packages (other Northern Virginia localities are expected to adopt this or a similar position).

---

[4]State transportation construction funds are provided to the City primarily from the Transportation Trust Fund (TTF), which pays for transportation construction. TTF funds go toward to the 4 major transportation modes as follows: highways, 78.7 percent; transit, 14.7 percent; ports, 4.2 percent; airports, 2.4 percent. Highway funds not required for maintenance or as match for federal interstate funding are subdivided as follows: 40 percent for primary highways, 30 percent for secondary highways, and 30 percent for urban highways. Most of Alexandria's state highway funding is received from these urban funds, which are allocated to the state's cities and any towns with a population of at least 3,500 on the basis of population. Each city or town annually recommends to the Commonwealth Transportation Board a list of projects to be funded from its allocation.

2.F. Increase in Sales Tax on Motor Fuels in Northern Virginia (Northern Virginia Regional Position)

Motorists in Northern Virginia pay a two percent sales tax on all motor fuel purchases. This tax was enacted by the 1980 General Assembly to provide a consistent and dedicated revenue source for the Metrorail system. Revenues originally were collected on all fuel purchases in those localities which belonged to NVTC (Northern Virginia Transportation Commission) at that time (the cities of Alexandria, Fairfax, and Falls Church, and the counties of Arlington and Fairfax). In 1986, the tax was extended to the localities belonging to PRTC (Potomac-Rappahanock Transportation Commission, which is made up of the Cities of Fredericksburg, Manassas, and Manassas Park, and the Counties of Stafford and Prince William), where it is used to pay for a portion of the costs of VRE (Virginia Railway Express) and other transportation programs. The tax has been assessed on motor fuel sales in Loudoun since that county jointed NVTC in 1990.

Since the tax is based on the cost, and not the amount, of fuel purchased, total revenues can vary considerably from year to year. Total NVTC revenues from this sales tax grew from $17.2 million in FY 2000 to $21.2 million in FY 2001, but they fell to $18.4 million in FY 2002. In FY 2003, they increased again, to $21,025,400.

NVTC motor fuels sales tax revenues for WMATA compact members (all NVTC localities except Loudoun) are used exclusively to pay for WMATA expenses (the law allows the revenues to be used for the capital and operating costs of both bus and rail). Each locality is generally credited with the amount of tax revenue raised from actual fuel sales in the locality, and this credit reduces the WMATA subsidy owed by the locality. Loudoun uses its motor fuels tax revenue for its own transit and transportation needs.

State taxes on motor fuels in the region are: Virginia: $0.175/gallon (not including the two percent regional motor fuels sales tax); District of Columbia: $0.20/gallon; and Maryland: $0.235/gallon.

In FY 2003, $1,773,500 million was raised from the two percent motor fuels sales taxes in the City of Alexandria. If the rate had been 4 percent, rather than 2 percent, revenues from motor fuel sales, would have been more than $3.5 million, which would have been credited toward the City's WMATA obligations.

While it is difficult to fully project the City's future WMATA obligations, the approved WMATA 10-Year Capital Improvements Plan estimates a need for as much as $215 million in City contributions over the next 10 years. Only $15.9 million of this is funded in the City's current CIP. While the cost of the 6-year Capital Improvements Program approved by WMATA is less than the 10-year plan, it demonstrates the City's need for additional dedicated transit revenues.

It is recommended that the City support any increase proposed for the sales tax on motor fuels in Northern Virginia to help pay for transit costs. The Northern Virginia Transportation Authority

and the Northern Virginia Transportation Commission are both considering this item as a part of their 2004 legislative packages.

2.G. Child Day Care Funding Issues (Early Childhood Commission)

For several years now, the City has sought additional state funding for child day care, which would increase the average state and local subsidy given to eligible families. As part of its 2003 legislative package, the City recommended that increased child day care funding be made a priority when the federal government's TANF program is reauthorized, and that priority be given to the following child day care programs: (1) child day care assistance for TANF "graduates" (increase, from one year to two years, their eligibility for transitional assistance once they leave TANF); (2) revised eligibility policies to reflect the high cost of living in Northern Virginia; and (3) reimbursement rates that reflect the actual child care market.

The City based these recommendations on the following factors:

- Giving TANF "graduates" additional child day care assistance. Current state policies make those parents who are making the transition off welfare (TANF) eligible to receive child day care assistance for up to 12 months. Most parents are not making sufficient wages to meet child day care and other needs at the end of this 12-month period. Ray Goodwin, Deputy Director of the Virginia Department of Social Services, noted last year that a new study prepared for the Department "shows that there have been many successes in welfare reform in Virginia, but some moving off welfare still struggle for self-sufficiency." To help address this problem, the City recommended last year that state policy be changed (and funding provided) so that parents are eligible for child day care assistance for an additional year after graduating from TANF. This would allow TANF graduates to stay employed, improve their wage rates, and eventually become totally self-supporting.

- Revising eligibility policies to reflect the high cost of living in Northern Virginia. Prior to 1996, Northern Virginia localities had the option of providing state child care subsidies for families with annual incomes up to 75 percent of the state median income. At that time, families with monthly incomes of about $3,000 or less (for a family of four) were eligible for this assistance in many Northern Virginia jurisdictions.

  Since 1996, however, income limits in Northern Virginia have been lowered significantly by the State. In Northern Virginia, a family of four is now eligible for child day care assistance only if its income does not exceed about $2,837 monthly. Federal regulations allow Virginia to extend these subsidizes to families whose monthly incomes are at or below $4,800 for a family of four.

  The City recommended last year that Northern Virginia eligibility levels be returned at least to their 1996 levels.

- Ensuring that reimbursement rates reflect the actual child care market. The Virginia Department of Social Services (DSS) is required (1) to survey local child day care providers biennially to determine actual market rates, and (2) to use these survey results to set state reimbursement rates. DSS published its most recent Alexandria market rate data in 2000, but did not use these data (which were flawed) to revise rates until 2001. Even then, the 2001 rates included only half the increase justified by the flawed and outdated survey.

  According to DSS, it completed a new market rate survey in early 2003. DSS has not yet shared the results of the survey with localities, and has not committed to a time frame for raising rates. DSS has told localities that it wants to fund the full market rate, or at least the 75th percentile of the range of rates in a particular jurisdiction, but that it has not identified a funding source.

  When reimbursement rates are set lower than actual market rates, low-income parents frequently must pay the difference to their child care providers. Furthermore, the number of individuals willing to provide child day care services decreases when reimbursement rates are too low, making it difficult for low-income families to find child care.

  The City recommended last year that DSS (1) undertake its market survey every two years, (2) revise rates in a timely manner after each survey, and (3) set and fund these revised rates at the 75th percentile of the market survey. This will help ensure that low-income families have access to affordable, quality child care.

Language aimed at implementing the above recommendations was included in the budget amendments passed by the 2003 General Assembly, which directed the Governor to do the following when preparing the 2004-6 biennial budget:

> When preparing the 2004-2006 biennial budget and implementing any new federal TANF legislation, the Governor shall consider providing additional child day care funding for the following priority areas: (i) provide an additional 12 months of day care assistance for those no longer receiving TANF financial assistance, (ii) revise eligibility policies to reflect the high cost of child day care in certain areas of the Commonwealth, and (iii) adjust reimbursement rates to reflect current market rates.

Although it is too early to know what, if anything, the Governor will propose for additional child day care funding, the Early Childhood Commission recommends that the City support any such initiatives that are proposed.

2.H. Payments to Foster Care Parents (Child Welfare Partnership)

Foster parents generously open their homes to children in need, and are committed to meet the individual needs of these children. They work in partnership with the child, the City, and in many cases the birth parents to help resolve problems and reunite the family whenever possible. Most children in foster care are going through a troubled period in their family life. They are often confused, sad, and angry, and need a great deal of support and attention from their foster parents.

The state provides some funding to cover the costs incurred by foster parents. Currently, this ranges from $294 monthly for a child 4 years old or younger, to $436 for a child 13 or older.[5] This is far less than the $689 that the federal government estimated in 2000 as the average monthly cost (not including medical care) of raising a 9-year-old child.

The City's Child Welfare Partnership believes that the state should substantially increase payments to foster parents, and recommended last year that the State study foster care rates and report its findings and recommendations for revised rates to the 2004 Session of the General Assembly.

The Commission on Youth has begun such a study, and expects to make recommendations on foster care rates later this year. The Child Welfare Partnership recommends that the City support any increases in foster care rates that are proposed.

2.I. Undocumented Students (Human Rights Commission)

Some members of the General Assembly attempted to enact legislation in the 2003 Session that would have explicitly prohibited any alien who is unlawfully present in the United States from being eligible for in-state tuition at Virginia's colleges and universities. The legislation passed both the House and Senate with substantial majorities, but was returned to the General Assembly by the Governor, who proposed to amend it so that it would not apply to students who:

- resided with their parents or guardians in Virginia during high school;
- graduated from a Virginia high school;
- had resided in Virginia for at least 5 years prior to high school graduation;
- had filed for and were pursuing permanent residency in the United States; and
- had paid (or had at least one parent or guardian who had paid) Virginia income taxes for at least three years prior to the date of enrollment.

The General Assembly rejected the Governor's amendment, so he vetoed the legislation, noting that his amendment "would have allowed a small but deserving group of students to receive the benefit of in-state tuition." He went on to explain that these students "were brought to this

[5] In cases where a child is living on his own, in an independent living arrangement often connected with attendance at college, the monthly payment increases to $644.

country by their parents through no fault of their own . . . are now - and . . . in all likelihood will continue to be - a part of our communities," and that the amendment was "fully consistent with federal law."

The Governor also said that he will seek legislation similar to what he proposed in his amendment during the 2004 Session. A joint legislative subcommittee, which includes Senator Saslaw and Delegate Darner among its members, is also pursuing this issue.

The Human Rights Commission recommends that the City support any legislative proposals in the 2004 Session that are similar to what was offered by the Governor in his proposed amendment to HB 2339.

2.J. Predicate Criminal Acts, Bail Statutes and Street Gang Crimes (Northern Virginia Regional Position)

Prince William County is seeking legislation to help address the region's gang problem, and has asked the other localities in Northern Virginia to support this legislation.

In August 2002, six members of MS-13, a criminal street gang, initiated a female juvenile into their gang. Recruiting a juvenile into a criminal street gang, or otherwise encouraging or causing him or her to join is a felony.

Some gang-related crimes[6] are considered predicate criminal acts (Va. Code §18.2-46.1), which makes the criminal activity more serious and subjects the accused gang member to more severe punishment if found guilty. Recruitment or initiation into a criminal street gang is not listed as a predicate criminal act, and so the defendants were only convicted of violating the initiation statute. The maximum sentence for this charge is 5 years. If initiation into a gang had been included in the predicate criminal act statute and the prosecution could have proven the defendants were members of a criminal street gang with a pattern of criminal gang activity, the defendants would have faced additional charges and jail time.

The proposed legislation will ask the General Assembly to expand the list of crimes that are considered predicate criminal acts (Va. Code §18.2-46.1). When a predicate criminal act is

---

[6]An act of violence or any of the following: shooting, stabbing, or wounding with intent to maim or kill (§18.2-51), malicious bodily injury to public safety personnel (§18.2-51.1); malicious bodily injury by means of any caustic substance, etc. (§18.2-52); shooting, stabbing, or wounding while committing a felony (§18.2-53); bodily injury caused by prisoners, probationers, or parolees (§ 18.2-55); assault and battery (§18.2-57); assault and battery against a family or household member (§18.2-57.1);entering another's property to damage it (§18.2-121); damaging or destroying church or cemetery property (§18.2-127); trespassing upon church or school property (§18.2-128); damaging or destroying war memorials or monuments (§18.2-137); damaging certain public buildings or materials (§ 18.2-138); breaking or tampering with transportation vehicles without permission (§18.2-146); setting in motion a transportation vehicle without permission (§18.2-147); or the willful damage of public or private property in violation of a local ordinance (§18.2-138.1).

committed by any criminal street gang or one of its members "for the benefit of, at the direction of, or in association with any criminal street gang," the predicate criminal acts constitutes a separate felony.

Crimes to be added to the list of predicate acts are:

- recruiting juveniles for criminal street gangs;
- manufacturing, selling and distributing controlled substances and marijuana (§§18.2-248 and 248.1);
- distributing certain controlled drugs to juveniles (§18.2-255);
- selling drugs on or near certain properties, such as schools (§18.2-255.2); and
- pointing, holding or brandishing a firearm (18.2-282).

Prince William also plans to seek legislation that will create a rebuttable presumption against bail for alleged violations of criminal street gang statutes.

The County has asked the City and other Northern Virginia localities to support both these legislative proposals.

2.K. Increasing the State Cigarette Tax (Community Services Board)

The state cigarette tax in Virginia is 2.5cents per pack, the lowest tax in the country. Only four states have a tax below a dime. The average state tax is $.705 per pack. Sixteen states (including Maryland and the District of Columbia) levy a tax of a dollar or more.

Virginians for a Healthy Future (VFHF) is a coalition of public health groups founded in 2002 "to improve the health, education & welfare of children, families and communities by reducing the use of tobacco products in Virginia." It proposes to do this by significantly increasing the state tax on cigarettes, and thereby discouraging smoking. At the same time, VFHF wants to take the new tax revenue and use it to fund the education and health needs of Virginia's children and families. Its initial attempt to raise the cigarette tax in the 2003 Session was unsuccessful.

VFHF plans to ask the 2004 General Assembly to increase Virginia's cigarette tax to $.75 (this would be in addition to any local cigarette tax, which is $.50 per pack in the City). It believes that such an increase would have significant public health benefits, by reducing adult and youth cigarette consumption, and would save thousands of lives. VFHF projects that the increase would generate approximately $350 million in new state revenue annually from the cigarette tax revenues, as well as additional sales tax revenues.

The Alexandria Community Services Board (as well as the Virginia Association of Community Service Boards) recommends that the City support the VFHF initiative as a means of promoting public health and generating new revenues to support some of the unmet education and health needs of Virginia children and their families.

2.L Funding for PAPIS – Pre and Post-Incarceration Services (Economic Opportunities Commission)

Since 1977, the Virginia CARES Network has provided services to help over 50,000 prisoners make the transition back into society, and prevent them from returning to prison. Virginia CARES estimates that it costs over $20,000 a year to keep a person in prison, but only $300 (a one-time cost) for this organization to provide the assistance that helps to keep a person from returning to prison. Virginia CARES provides pre-release and post-incarceration services to persons who are ready to be released, or have recently been released, from prison, including counseling, assistance with job placement, and substance abuse counseling.

The State has provided funding for Virginia CARES for a number of years. Last Session, the General Assembly eliminated all state funding for the organization. This funding was intended to be used in part to provide the resources necessary to match available federal funds. A one-time Congressional earmark, as well as other local government, private, and foundation money, was used to provide the required federal match and other program funding for FY04.

The Economic Opportunities Commission has asked the City to support the restoration of state-match funding to this program for FY 05-06 (approximately $825,000 annually), so that available federal funds can be drawn down to support this program.

2.M Increased Funding for Community Services Block Grants (Economic Opportunities Commission)

The City of Alexandria, through the Department of Human Services, provides a wide range of emergency services, crisis intervention, housing and shelter assistance to low-income residents. These activities are supported by the federal Community Services Block Grant (CSBG) and a state supplement, both managed by the Virginia Department of Social Services. In response to Virginia's ongoing budget problems, the state in recent years removed most of the state general fund dollars going to the CSBG and replaced them with surplus TANF (federal welfare) dollars. The state is now projecting that there will be no surplus TANF money for the upcoming biennium; thus calling into question whether there will be any state funds for this emergency services program. At the same time, the proposed budget for federal CSBG funding includes a 25 percent reduction in federal FY 2004.

The Virginia Council Against Poverty, which is the state Community Action Association representing 26 local Community Action Agencies and four statewide community action programs, is seeking to replace any lost TANF funds (approximately $1 million annually) with state general funds.

The Economic Opportunities Commission recommends that the City support this proposal.

2.N Additional Funding for Project Discovery (Economic Opportunities Commission)

Project Discovery is a drop-out prevention program that helps students become the first members of their families to attend college or technical school. Through workshops, trips to colleges and enriching experiences, students learn how to achieve educational goals, select a college, manage time, improve study skills, and apply for financial aid. The program focuses on academic achievement, and promotes education as the primary means to break the cycle of poverty. Project Discovery serves 49 school districts in Virginia, including Alexandria (state funding is provided through the Department of Human Services). Over the last five years, 81 percent of Alexandria's Project Discovery graduates went on to post-secondary education.

State funding for Project Discovery has been cut by over 25 percent in the last two years. Those localities with Project Discovery programs are seeking to restore these cuts, which totaled nearly $300,000. The Economic Opportunities Commission recommends that the City support additional funding for Project Discovery.

2.O. Funding for Healthy Families (Early Childhood Commission)

Healthy Families is an intensive home-visiting program that attempts to get first-time parents who are faced with very challenging circumstances (i.e., they have low incomes or other risk factors) off to a positive start with their first child. The Healthy Families Virginia network serves families in 80 communities throughout the Commonwealth, using State, local, and private funding. Healthy Families Alexandria serves over 200 families in the City.

State funding for Healthy Families has been precarious in recent years, and has come primarily from Virginia's TANF (federal welfare) appropriation. Virginia has now drawn down surplus TANF funds that were used for this and other programs in recent years. These funds are not likely to be available in FY 2005 or future budget years. In addition, TANF funds are not as useful to the Healthy Families Program as state general funds, since general funds, unlike TANF funds, can be used to match other federal grants and draw down additional federal money. Healthy Families Virginia is seeking to have the Governor and General Assembly continue its support for this program at its current level or higher, but to fund this support from state general funds.

The Early Childhood Commission recommends that the City supports this Healthy Families proposal.

2.P. State Tax Relief for Low-Income Virginians (Economic Opportunities Commission)

For a number of years, the City has supported legislative proposals to create a state Earned Income Tax Credit (EITC). An EITC (which is already available for the federal income tax) is a special tax credit for low-income working persons. Until 1998, all proposals for a state EITC were defeated. Since 1998, legislation has been in place which, while not as generous as a state EITC, has eased the tax burden of some low-income Virginians. While the City supported this

legislation, it has sought to broaden this tax relief and make it available to more low-income Virginians.

The General Assembly Commission that is now reviewing Virginia's state and local taxes is considering options to restructure the state income tax. The Economic Opportunities Commission recommends that the City support restructuring that includes significant additional tax relief for low-income Virginians.

2.Q. Restoration of Civil Rights for Felons (Human Rights Commission)

Under Virginia law, any person convicted of a felony forfeits certain civil rights for life, including the right to vote. The Virginia Constitution reserves to the Governor the power to restore these rights. Virginia's process for restoring rights is one of the most restrictive in the country. In recent years, there have been increased complaints about the difficulties felons in Virginia face if they try to have their rights restored. They often have no idea how the process works, and have found it difficult to determine the status of their requests to have their rights restored.

Legislation (HB 1080) passed by the 2000 General Assembly addressed some of these problems. It required the Virginia Department of Corrections to explain to felons, at the completion of their prison sentence, the state process for restoring civil rights. HB 1080 also directed the Secretary of the Commonwealth (who prepares, for the Governor, the paperwork on the restoration of rights) to notify felons once a completed application for the restoration of rights has been received. Finally, the bill required the Secretary of the Commonwealth to notify an applicant of the Governor's decision (whether or not voting rights will be restored) no later than 90 days after that decision had been made.

Governor Mark Warner has made further changes to streamline the process by which those convicted of non-violent felonies, other than drug distribution offenses and voting fraud, may regain their civil rights (including the right to vote, to hold public office, to serve on a jury and to serve as a notary public). Under the Governor's policy, these offenders may apply for a restoration of rights three years (as opposed to the existing policy of five years) after completing their sentence, as well as any suspended sentence, probation, parole or supervised release. The application has been reduced to a single page. The Commonwealth will continue to perform a criminal background check on all applicants. Those applicants who have not been convicted of any offense since the conviction which caused them to forfeit their civil rights, and have no pending criminal charges, will have their voting rights restored. The policy also provides for all applicants to receive a decision from the Governor within six months of submitting a completed application.

In the 2003 Session, a Task Force of the Virginia State Crime Commission, chaired by Delegate Brian Moran, recommended that the State Constitution be amended to authorize the General Assembly to provide by statute for the restoration of a felon's rights. If such an amendment is enacted, the General Assembly could provide by statute for the continuation of Governor's

Warner revised policies or similar ones. Without such an amendment, a future Governor could retract the Warner process and return to the earlier slower, more cumbersome one. The City of Alexandria supported the Crime Commission proposal. The Crime Commission's legislation was passed, but must be reenacted in the 2004 Session in order for the proposed constitutional amendment to be included on the ballot in November 2004.

The Human Rights Commission recommends that the City support this legislation in the 2004 Session.

2.R. Section 1115 Waivers (Human Rights Commission)

Section 1115 of the Social Security Act gives the United States Secretary of Health and Human Services authority to waive provisions of the federal Medicaid statute. One of the "waivers" that the Secretary can allow enables states to extend Medicaid eligibility to certain low-income persons not otherwise covered by Medicaid.

Virginia's Medicaid program currently does not provide coverage for a number of persons who have HIV/AIDS and other progressive diseases because they are still working and have income levels and assets that prevent them from qualifying for the program. Some of these people do not have access to health insurance, and the only way they are able to qualify for Medicaid is to quit their jobs and spend down their assets. If they had access to good medical care through the Medicaid program, they could continue working and providing for their non-health related needs. Early medical treatment would also improve these individuals' chances for full or long-term recovery.

The State Department of Medical Assistance Services, which administers the State Medicaid Program, is designing a pilot program for up to 200 Virginians to participate in the state Medicaid program through the 1115 Waiver Program. The Human Rights Commission recommends that the City support this program and any funding that is needed for it.

2.S. Clean Smokestacks Act

Under the Clean Air Act, existing coal-fired power plants, such as the Mirant plant in north Old Town, do not have to meet the same clean air standards that new plants do. A proposed Clean Smokestacks Act, which has already been enacted in North Carolina and introduced in Congress, would require every power plant in Virginia to meet the most recent pollution control standards for new pollution sources within five years from enactment of such legislation, or within 30 years of the date the plant commenced operations, whichever occurs later. Such a law in Virginia would result in cleaner air in many parts of the State, and could assist the region in meeting federal requirements for reducing air pollution in the Washington metropolitan area. It is recommended that the City support such legislation if it is introduced in the 2004 Session.

2.T. Financing of Mixed Income and Mixed Use Projects by the Virginia Housing Development Authority (VHDA)

The Virginia Housing Development Authority (VHDA) expects to seek legislation that will allow it to finance both mixed income and mixed use projects. VHDA has been advised by many localities that they would like to be able to use VHDA financing for new housing developments that are made up of residents with mixed incomes, and for developments that are mixed use (they may include some commercial or other non-residential buildings, especially in an area that is being redeveloped).

It is recommended that the City support the VHDA proposal if it is introduced in the 2004 Session.

2.U. Issues Endorsed by the Alexandria Commission on Aging

The Alexandria Commission on Aging regularly asks Council to endorse the legislative platform of the Northern Virginia Aging Network (NVAN). The Commission then testifies in support of the platform during the General Assembly Session. Council has followed this process since 1997 (authorizing the Commission to support the NVAN platform).

This year NVAN's platform (Attachment 2) asks that the General Assembly provide funding and legislation that will assist older Virginians in five areas:

- Maintaining and improving home and community-based services;
- Ensuring that there is adequate, affordable, and accessible senior housing;
- Offering better protection to seniors by increasing nursing home staffing and expanding public guardianship;
- Ensuring quality health care, including the provision of mental health services; and
- Several other measures, such as helping to pay for prescription drugs and increasing Medicaid eligibility, and increasing state funding for the Auxiliary Grant Program.

The Commission recommends that the City support the NVAN legislative platform.

2.V. Regulation of Future Rate Increases for Dominion Virginia Power

At the October 14, 2003, Council meeting, questions were raised regarding changes to the state laws which govern rate increases for electric power companies. Council asked that staff consider whether to recommend, in the City's 2004 Legislative Package, that these laws be changed. More specifically, interest was shown in changing the rate increase statutes so that the State Corporation Commission, which approves or disapproves rate increases sought by the industry, could consider excessive earnings by a utility when determining whether to grant a rate increase to cover the utility's increased fuel costs.

In the late 1990's, the General Assembly enacted legislation to deregulate electric utilities. A portion of this legislation froze all electric utility rates in effect on January 1, 2001. These 2001 rates are scheduled to remain in effect until July 1, 2007. Utilities may, however, file requests with the State Corporation Commission (SCC) to increase their rates in the following cases: (1) to recover increased costs incurred for fuel purchases; (2) to pay changes in taxation by the Commonwealth; or (3) to address "any financial distress of the utility beyond its control."

In recent months, Dominion Virginia Power (DVP) filed a request with the SCC to increase its rates to recover past costs related to fuel purchases. This request came at the same time as DVP was reporting profits that were double the levels set by the SCC as a minimum rate of return. The City submitted comments on the DVP proposal and questioned whether the proposed rate increase, which was unprecedented in size and scope, should be allowed at the same time the company is earning such high profits.

At the same time that this rate increase was proposed, members of the General Assembly and staff from the Governor's office and the Attorney General were expressing concern that competition among electric utilities has not yet developed. As a result, they have recommended to a legislative subcommittee that oversees the deregulation process that the 2001 utility rates remain in place until 2010, three years longer than provided for under the current law. The City has been advised by SCC staff that this extension may also include a provision that allows the SCC to consider a company's profits when it determines whether to allow a rate increase to recover increased costs for fuel purchases

It is recommend that the City support such legislation.

3. Requests for Legislation to Be <u>Opposed</u>

3.A. Virginia Housing Development Authority Loan Eligibility (Human Rights Commission)

The Virginia Housing Development Authority makes loans for affordable housing to first-time home buyers with low and moderate incomes. VHDA loans are more attractive to home buyers because they generally require a lower down payment, a lower interest rate, or both.

For some years now, a VHDA regulation has required that persons borrowing jointly for a single residence must be "related by blood, marriage, adoption or legal custodial relationship." This has precluded unrelated couples, including engaged couples and same-sex couples, from receiving VHDA assistance. On July 25, 2003, VHDA repealed this provision. Now, anyone, or any couple, who satisfies its standard criteria and requirements (e.g., a satisfactory credit report and sufficient income) will be eligible for its loans. The City has endorsed the changes made by VHDA on July 25 in past legislative packages.

Since the VHDA action, some individuals and organizations have said they will seek legislation in 2004 to reinstate the earlier VHDA requirements for a relationship by blood, marriage, adoption,

or legal custody. The Human Rights Commission and the Landlord-Tenant Relations Board have asked the City to oppose such legislation.

3.B. Residential Rental Inspections (Landlord-Tenant Relations Board)

House Bill 1678 was introduced in the 2003 General Assembly Session on behalf of realtors and the apartment and office building industry to significantly limit the ability of local governments to operate residential rental inspection programs. It passed both houses of the General Assembly. This legislation would have required the City to significantly revise its Residential Rental Permit (RRP) program, which has been in place in its current form for over a quarter century. Inspections would have been allowed only for dwelling units which: (1) are located in a deteriorating area designated as a conservation or rehabilitation district, or in an area designated as blighted; and (2) have a greater number of building code violations than other dwelling units in the locality. The bill would have required the majority of units in a designated conservation or rehabilitation district to be over 20 years old. A fee of up to $50 would have been authorized to cover the cost of inspections.

This legislation would have eliminated the City's ability to do annual proactive inspections of dwelling units, and eventually could have led to the deterioration of a large number of rental properties in the City. After significant lobbying by local governments, Governor Warner vetoed the legislation.

The Landlord-Tenant Relations Board recommends, and City staff strongly concurs, that the City oppose this legislation if it is reintroduced in the 2004 Session.

3.C. Living Wage

In June 2000, Alexandria adopted a living wage ordinance. This ordinance requires those firms that are awarded certain City service contracts to pay their workers a wage that meets or exceeds the federally established poverty guidelines (currently $17,650 for a family of four). The purpose of this ordinance is to help these private sector employees who furnish services to the City, so that they can better provide for themselves and their families while contributing to society as productive workers.

The living wage ordinance is also helpful in furthering the goals of welfare reform. One of the problems that individuals here face when they enter the work force and leave government subsidies is that their wages are insufficient to pay for the bare necessities–food, shelter, transportation, child care, and medical care. The City's living wage ordinance is an attempt to help workers afford these necessities. Since the City's action, Charlottesville and Arlington have also adopted living wage ordinances.

In the 2001 Session, legislation was introduced to repeal the City's authority to adopt a living wage ordinance. After considerable work by the City and other living wage supporters, this

legislation was defeated. It is recommended that the City oppose any such legislation if it is introduced in 2004.

3.D. Telecommunications Taxes

As a part of its efforts to restructure state and local tax policy, a General Assembly subcommittee is reviewing existing state and local telecommunications taxes. At the subcommittee's request, local government representatives have been meeting with industry representatives and General Assembly staff for over a year to discuss ways the current telecommunications tax structure might be changed. A proper restructuring of telecommunications taxes could be helpful to local governments by allowing their tax policies to better respond to changes within the telecommunications industry (e.g., the trend toward wireless phones and away from land line phones).

The industry, with the concurrence of the legislative subcommittee, has proposed a new tax structure based on the following principles:

- Local government telecommunication tax revenues (for each locality) immediately following a restructuring of the tax system should be equal to what the revenues were prior to the restructuring;
- All telecommunications services (including long distance) should be taxed at the same rate, and at a rate approximately equal to the state sales tax (4.5 percent);
- The current E-911 taxes (land line and wireless) should be levied at a rate estimated at $.50 to $.75 monthly (depending on how much is needed to make localities "whole"); and
- All existing local telecommunications taxes, including the consumer utility tax, an "extra" license (BPOL) tax, and existing E-911 taxes and fees should be repealed in lieu of the new taxes described above.

The industry also wants to repeal local cable television franchise fees and replace them with this new tax. Local governments have resisted this proposal, and asked that the restructuring proposal be confined to telephone-related taxes and fees.

Local government representatives have told the industry and the legislative subcommittee that localities would be willing to consider a restructuring proposal, but that certain local government principles must be addressed in any proposal:

- Local governments must be ensured that any new telecommunications tax and revenue distribution system will not result in a decrease in revenues for local governments at the time of its adoption and in the future;
- Since local governments would have to rely on FY 2004 revenues as the base for the industry proposal, localities insist that the state should undertake a third party audit of FY 2004 data;
- A third party administrator, not the state, must collect and apportion these tax revenues so

that they are not subject to General Assembly appropriation, and the General Assembly can never "capture" a portion of the revenues to make up for shortfalls in state general fund revenues; and

- Any restructuring of telecommunications taxes should be done in the context of overall state and local tax restructuring, and not separately during the 2004 Session.

It is recommended that the City oppose any legislation that would reduce existing City revenues from telecommunications or lessen the reliability of such revenues, now and in the future.

STAFF:
Bernard Caton, Legislative Director
Michele Evans, Assistant City Manager

ATTACHMENTS:

Attachment 1. Summary list entitled "City of Alexandria 2004 Legislative Package Proposals"
Attachment 2. 2004 NVAN (Northern Virginia Aging Network) State Legislative Platform

Attachment 1

City of Alexandria 2004 Legislative Package Proposals

1. Requests for Legislation to Be Proposed

    1.A. Increasing Affordable Housing in New Developments

    1.B. Increasing Affordable Housing for City and School Employees (Charter Amendment)

    1.C. Revisions to the City Charter Pertaining to Zoning (Charter Amendment)

    1.D. Revising Virginia's Hate Crimes Laws

    1.E. Additional Funding for the Mental Retardation Waiver Program

    1.F. Privileged Communications: Sexual Assault & Domestic Violence Victims

    1.G. Enforcement Authority for the Human Rights Commission (Charter Amendment)

    1.H. Cost of Living Increases for Council Salaries

2. Requests for Legislation to Be Supported

    2.A. Education Funding

    2.B. Tax Restructuring

    2.C. Revisions to the Red Light Camera Law

    2.D. Stopping for Pedestrians in Crosswalks

    2.E. Increase in State Motor Fuels Tax

    2.F. Increase in Sales Tax on Motor Fuels in Northen Virginia

    2.G. Child Day Care Funding Issues

    2.H. Payments to Foster Care Parents

    2.I. Undocumented Students

2.J. Predicate Criminal Acts, Bail Statutes and Street Gang Crimes

2.K. Increasing the State Cigarette Tax

2.L. Funding for PAPIS – Pre and Post-Incarceration Services

2.M. Increased Funding for Community Services Block Grants

2.N. Additional Funding for Project Discovery

2.O. Funding for Healthy Families

2.P. State Tax Relief for Low-Income Virginians

2.Q. Restoration of Civil Rights for Felons

2.R. Section 1115 Medicaid Waivers

2.S. Clean Smokestacks Act

2.T. VHDA Financing of Mixed Income and Mixed Use Projects

2.U. Issues Endorsed by the Alexandria Commission on Aging

2.V. Regulation of Future Rate Increases for Dominion Power

3. Requests for Legislation to Be Opposed

3.A. Changes to Virginia Housing Development Authority Loan Eligibility

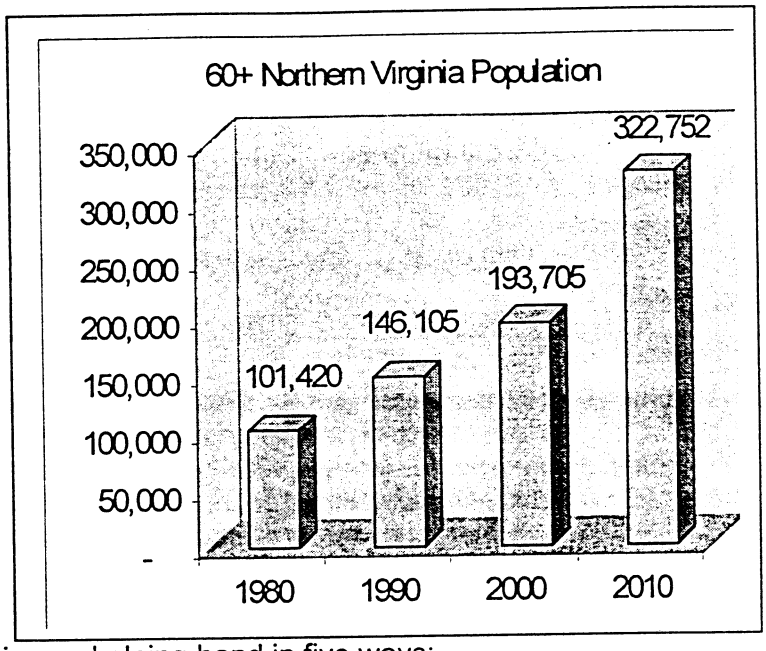
3.B. Residential Rental Inspections

3.C. Living Wage

3.D. Telecommunications Taxes

2004 NVAN State Legislative Platform

The 2004 State Legislative Platform of the Northern Virginia Aging Network (NVAN) supports improving the quality of life for older Virginians, making the Commonwealth "Elder Ready."



According to the 2000 Census, the population of Virginians age 60+ exceeds one million. In Northern Virginia alone, this population has nearly doubled in the last 20 years. Dramatic growth in the senior population will escalate as the Baby Boomers mature – with the first reaching age 60 in just two short years. In addition, the state increasingly is becoming a retirement destination.

We want to make Virginia a good place to grow old. We want to give older Virginians a helping hand in five ways:

I. No Place Like Home -- Maintain & Enhance Essential Services

- **Home and Community Based Care.** NVAN urges the General Assembly to restore to the Department for the Aging funding ($1,838,241 cut for FY 2004) for home and community based services provided through the area agencies on aging.

- **Virginia Commonwealth University Center on Aging Funds.** NVAN urges the restoration of $75,000 for the VCU Center on Aging to conduct critical research in gerontology, including biomedical and psychosocial research on dementia.

II. Affordable, Accessible Housing -- Make the State Elder Ready

- **Affordable, Accessible Assisted Living.** NVAN recommends enactment of a pilot project to provide state funds to supplement operating costs for affordable assisted living, in conjunction with federally subsidized housing.

- **Home Modification.** NVAN recommends funding for home modification. These funds would be used as the required state match for the Medicaid Elderly Plus Waiver {1915(c) Home & Community Based Services Waiver} that will enable older Virginians with disabilities to remain in the community.

- **Visitability.** NVAN recommends enactment of "visitability" (basic accessibility) measures for new single-family homes in the Commonwealth, allowing older Virginians to remain in their homes as disabilities develop, and assisting families in caring for older relatives in their homes. The measures should include requirements for basic low-cost accessibility features in homes constructed with federal or state financial assistance; as well as incentives for homebuilders, and education of homebuilders, homebuyers and others.

III. The High Cost of Poor Care – Reduce Risk for Older Virginians

- **Nursing Home Staffing.** NVAN urges the General Assembly to develop a nursing home staffing standard. NVAN also encourages an increase in minimum training requirements for nursing assistants to 160 hours, including training in appropriate feeding techniques and in dementia/Alzheimer's Disease care, as well as support for additional training, compensation, and a career ladder for direct-care staff.

- **Public Guardianship and Conservatorship Program.** NVAN urges the General Assembly to provide $250,000 to the Department for the Aging for FY 2005 to expand the Public Guardianship and Conservator Program, to offer protection for the most vulnerable Virginians with no other options, thereby providing more cost-effective services.

IV. Quality Health Care – Close Gaps for Older Virginians

- **Mental Health Services for Older Adults.** NVAN supports measures to help older Virginians with serious mental illness and dementia get the psychiatric placement and services they need (beginning with a study by the Joint Commission on Health Care's behavioral health subcommittee). This population has been "defined out" of mental health services and frequently faces closed doors.

- **Pain Management.** NVAN urges the General Assembly to develop a pain management standard in long-term care facilities. The Commonwealth should recognize an individual's basic need to be free from physical pain and should protect health care providers from prosecution in their good faith efforts to manage pain.

- **Availability of Assistive Technology**. (1) NVAN supports measures to increase training in the use of assistive technology products and low-cost home modification so older adults can regain personal independence, minimize caregiver burden, and reduce health costs. (2) NVAN supports funding to expand the programs for hearing assistive technology such as hearing aids and other communication devices for people with hearing loss.

V. Other

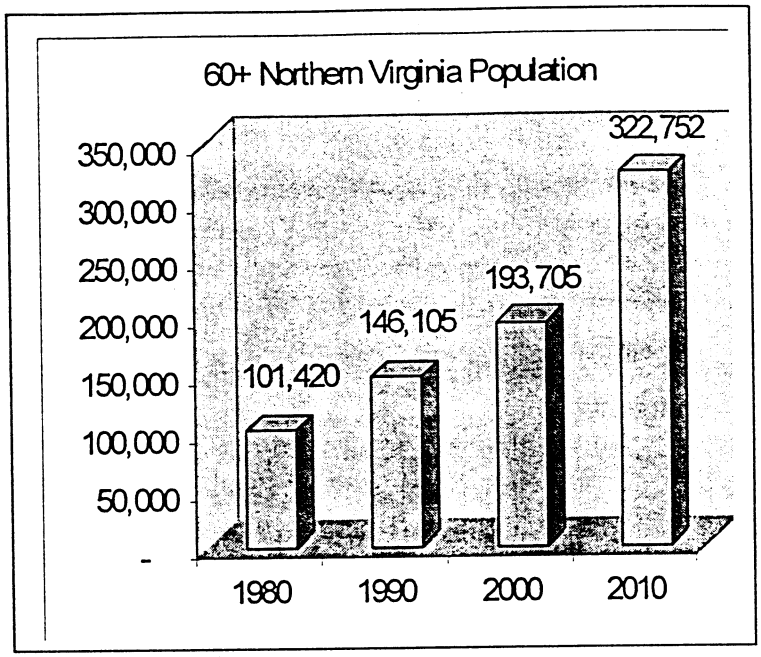
NVAN also supports additional measures to maximize independence and promote services for older Virginians, including: (1) the development of new plans to finance **prescription medications**; (2) an increase in **Medicaid eligibility** from 80% ($7,184 for a single person) to 100% ($8,980 for a single person) of the Poverty Level; (3) a revision in the assisted living **Auxiliary Grant** program to make it completely state-funded by eliminating the local share; (4) an increase under the Medicaid "Elderly and Disabled Waiver" in the **personal maintenance allowance**; (5) initiatives to strengthen **adult protective services** (APS); (6) a study of the use of **adult foster care** as a promising long-term care option; and (7) increased funding for **long-term care ombudsman** services, which provides advocacy for vulnerable residents in long-term care facilities.

Commissions on Aging: Alexandria, Arlington, Fairfax, Loudoun & Prince William
Falls Church Senior Citizens Commission
Northern Virginia Regional Commission
7535 Little River Turnpike, Suite 100
Annandale, Virginia 22003
www.novaregion.org

2004 NVAN State Legislative Platform Background

The 2004 State Legislative Platform of the Northern Virginia Aging Network (NVAN) supports improving the quality of life for older Virginians, making the Commonwealth "Elder Ready."

According to the 2000 Census, the population of Virginians age 60+ exceeds one million. In Northern Virginia alone, this population has nearly doubled in the last 20 years. Dramatic growth in the senior population will escalate as the Baby Boomers mature – with the first reaching age 60 in just two short years. In addition, the state increasingly is becoming a retirement destination.



We want to make Virginia a good place to grow old. We want to give older Virginians a helping hand in five ways:

- Maintaining and enhancing essential *home and community based services*;
- Making the state elder ready through affordable, accessible *senior housing*, home modification and visitability;
- Reducing risks through increasing *nursing home staffing* and *expanding public guardianship*;
- Ensuring quality health care including *mental health services* and development of *pain management standards* in long-term care facilities; and
- Other key measures such as helping to pay for prescription drugs and increasing Medicaid eligibility from 80% to 100% of the Poverty Level.

Aging America
IT'S EVERYONE'S FUTURE

Commissions on Aging: Alexandria, Arlington, Fairfax, Loudoun & Prince William
Falls Church Senior Citizens Commission
Northern Virginia Regional Commission
7535 Little River Turnpike, Suite 100
Annandale, Virginia 22003
www.novaregion.org

NVAN Fact Sheet -- No Place Like Home: Maintain & Enhance Essential Services

Home and Community Based Care. NVAN urges the General Assembly to restore to the Department for the Aging funding ($1,838,241 cut for FY 2004) for home and community based services provided through the area agencies on aging.

- Home-based services (such as in-home care, home delivered and congregate meals, transportation, care coordination, and adult day/respite care) help older Virginians function independently, keep them in the least restrictive setting in homes of their choice (including adult foster care), strengthen and build on family support, decrease the risk of inappropriate institutionalization, improve life satisfaction and save money.

- While the financial situation of the Commonwealth today is troubling, NVAN maintains that we must not allow waiting lists for critical aging services to grow.

- This request is supported by the Virginia Coalition for the Aging and the Virginia Association of Area Agencies on Aging.

Virginia Commonwealth University Center on Aging Funds. NVAN urges the restoration of $75,000 for the VCU Center on Aging to conduct critical research in gerontology, including biomedical and psychosocial research on dementia.

- The Virginia Commonwealth University Center on Aging is charged by the General Assembly to conduct research in the field of gerontology and make the findings available.

- The Center operates the Alzheimer's & Related Diseases Research Award Fund, to stimulate innovative research into biomedical and psychosocial aspects of dementia; and increase public understanding about how dementia affects individuals, families, caregivers, and society. At least one –third of all Virginians above age 85 are affected by dementia. The Research Award Fund has resulted in over 100 scientific publications and is returning to the Commonwealth a documented $8.18 for every $1 of General Fund appropriations -- $8.9 million in research awards from non-state grantors.

- In 2003, the General Assembly reduced Center on Aging funds by $75,000, including a substantial cut in the Research Award Fund. Previously the Center sustained a cut of $47,500. These funds should be restored.

NVAN Fact Sheet – Affordable, Accessible Housing: Make the State Elder Ready

<u>Affordable, Accessible Assisted Living.</u> NVAN recommends enactment of a pilot project to provide state funds to supplement operating costs for affordable assisted living, in conjunction with federally subsidized housing.

- There is a need for affordable and accessible assisted living throughout the nation and throughout the Commonwealth, including areas such as Northern Virginia, the Chesapeake Bay region and Southwest Virginia.
- The Auxiliary Grant is insufficient to cover assisted living costs, and even with modest increases will not fill the gap between the cost of operating assisted living for low and moderate income residents and the amount of resident pay.
- Innovative projects such as Culpepper Garden in Arlington are beginning to show that federal housing funds such as Section 202 can be used as a base to provide for the construction of affordable assisted living, but that a gap exists in the costs of providing resident care and services.
- NVAN supports a three-area pilot project, in conjunction with the Virginia Housing Development Authority and the Department of Housing & Community Development, to demonstrate the cost-effective use of operating subsidies for such projects.
- This fits squarely with the thrust of the 2002 HB 813 addressing strategies for affordable, accessible housing for elders and adults with disabilities, as well as with the recent Report of the Olmstead Task Force (*One Community: Final Report* 2003) -- and also is supported by the Virginia Association of Area Agencies on Aging.

- **<u>Home Modification</u>. NVAN recommends funding for home modification. These funds would be used as the required state match for the Medicaid Elderly Plus Waiver {1915(c) Home & Community Based Services Waiver} that will enable older Virginians with disabilities to remain in the community.**

The Department of Medical Assistance Services (DMAS) is currently preparing regulations to enact an Elderly Plus Medicaid Home and Community Based Services Waiver.

- The waiver will include a limited amount of environmental modification funding to make a home safe and accessible for persons with disabilities. The proposal envisions a model waiver with no more than 200 recipients statewide, with a lifetime limit on the costs of these modifications at $1,000.
- The modifications are critical in allowing seniors who are otherwise nursing home eligible to remain in their homes, in accordance with the underlying concepts of the *Olmstead Task Force*.
- To provide for this new opportunity, participating Area Agencies on Aging must *divert match funds from existing much-needed community-based services* such as meals, transportation and home care. NVAN, with the Virginia Association of Area Agencies on Aging, proposes a unique pilot program to demonstrate the cost effective use of funding subsidies to support the match for home modification that does not reduce access to meals and other key services.

NVAN Fact Sheet – Visitability: Make the State Elder Ready

NVAN recommends enactment of "visitability" (basic accessibility) measures for new single-family homes in the Commonwealth, allowing older Virginians to remain in their homes as disabilities develop, and assisting families in caring for older relatives in their homes. The measures should include requirements for basic low-cost accessibility features in homes constructed with federal or state financial assistance; as well as incentives for homebuilders, and education of homebuilders, homebuyers and others.

- More than 90% of persons age 65 and older would prefer to stay in their homes as long as possible but many cannot do so if they develop disabilities because their homes have structural barriers.
- Home modification can help, but in the long run it may be simpler and cheaper to incorporate architecturally friendly universal design features into new homes as they are being built. (See Kochera, AARP Public Policy Institute, *Accessibility and Visitability Features in Single Family Homes*, #2002-03, http://research.aarp.org/il/2002_03_homes_1.html).
- While existing law addresses accessibility features in newly built multi-family housing, it does not cover single-family homes – which account for more than two-thirds of units built nationally in recent years
- The term "visitability" refers to a basic set of design features that allow for aging in place and also allow for visits by friends and relatives requiring accessibility. The term connotes an emphasis on *the most essential accessibility features* – for example, entering a home without steps, a 32-inch clear passage through all interior doors, at least one half-bath on the main floor, reinforced bathroom walls for possible addition of grab-bars, and easy to reach environmental controls.
- Studies show the costs are minimal and access is an important social goal – helping to make the Commonwealth more "elder-ready." A leading accessibility organization, Concrete Change in Atlanta, estimates visitability features *would add around $200 in direct costs to a typical new home* (although this may depend on topography). Moreover, legislation could provide for a waiver if the topography makes the design unreasonably expensive.
- Legislative initiatives requiring visitability features have been passed in Georgia, Minnesota, Vermont, Florida and Texas, as well as a number of localities; and the movement is gaining momentum in other areas as well. (See Concrete Change website at http://concretechange.home.mindspring.com/index.htm).
- In 2003, the General Assembly directed the Housing Study Commission to convene a workgroup on visitability issues (SJ 357). NVAN supports basic visitability requirements, as well as incentives to all homebuilders and homebuyers.

NVAN Fact Sheet – The High Cost of Poor Care: Nursing Home Staffing

NVAN urges the General Assembly to develop a nursing home staffing standard. NVAN also encourages an increase in minimum training requirements for nursing assistants to 160 hours, including training in appropriate feeding techniques and in dementia/Alzheimer's Disease care, as well as support for additional training, compensation, and a career ladder for direct-care staff.

- Nursing home staffing levels have not kept pace with the increased demand for more and better trained personnel. Studies show a positive relationship between nurse/nursing aide levels and the quality of care residents receive. The 2001 General Assembly requested a study by the Joint Commission on Health Care, *Nurse Staffing Ratios in Nursing Facilities Study.*
- In 2003, staffing standards were set out in HB 2256 and SB 921 but were not enacted. NVAN supports minimum nursing home staffing standards – with other national and state advocacy groups including the National Citizens' Coalition for Nursing Home Reform (NCCNHR), TLC-4-LTC, Virginia Coalition for the Aging, Virginia Poverty Law Center, Virginia Long-term Care Ombudsman Program, the South Hampton Roads Coalition on Aging and the Alzheimer's Association of Northern Virginia.
- In 2002 a study by the U.S. Department of Health and Human Services found "strong and compelling evidence" to support minimum staffing levels at nursing homes. It found that 90% of nursing homes do not have enough staff to provide even basic care to residents -- including activities of daily living such as dressing and grooming, exercise, feeding assistance, changing wet briefs, repositioning residents, and providing toileting assistance. (*Appropriateness of Minimum Nurse Staffing Standards in Nursing Homes*).
- Because Virginia has established very stringent criteria for the level of care at which individuals are medically eligible for Medicaid payment for nursing facility care, Virginia nursing home residents have the highest acuity level in the nation.
- A total of 37 states have established minimum nurse staffing standards
- "Shortage of staff" is the most frequent nursing home complaint received by Virginia's Long-term Care Ombudsman Program.
- The Office of the Inspector General of the U.S. Dept. of Health and Human Services has reported that inadequate levels of nursing home staff contribute to quality of care problems (1999). The U.S. General Accounting Office has concluded in a number of studies that the shortage of Certified Nurses Aides has a negative impact on quality of care. The Hartford Institute Expert Panel of experts in 1998 found that there is a positive relationship between higher nurse staffing levels and outcomes of nursing home care (*The Gerontologist)*. Data show that the average staffing levels for RNs, LPNs, and CNAs in nursing homes are too low in some facilities to provide high quality care.
- Avoidable incontinence, pressure ulcers and hospitalizations for residents, in addition to injuries and high turnover rates for nurses aides can cost the Commonwealth millions of dollars per year – the "*high cost of poor care.*"

NVAN Fact Sheet -- The High Cost of Poor Care: Public Guardianship and Conservatorship Program

NVAN urges the General Assembly to provide $250,000 to the Department for the Aging for FY 2005 to expand the Public Guardianship and Conservator Program, to offer protection for the most vulnerable Virginians with no other options, thereby providing more cost-effective services.

- Guardians and conservators make a tremendous difference in the lives of a vulnerable population by securing critical medical care, appropriate housing, public benefits and community-based services – as well as socialization and emotional support.
- Lack of guardianship services may result in extended hospital stays, family turmoil, delays in obtaining benefits, clients living at great risk, inability to make medical and other important decisions, and even untimely death.
- Some low-income adults with diminished capacity due to dementia, mental retardation or other disabling conditions have no one to serve as guardian and/or conservator.
- The General Assembly in 1998 enacted the Virginia Public Guardian and Conservator Program. Currently, 10 local and regional programs have been funded -- using a mixture of paid and volunteer staff, and operated by governmental or private non-profit agencies.
- A legislatively-mandated assessment of the Program in 2002 found the program was meeting the needs of close to 200 clients, and reported *over $3 million in yearly cost savings* (e.g., discharge from a state hospital to an assisted living facility, discharge from a state hospital to a nursing home, recovering assets from clients who were being exploited) in addition to intangible savings in improving incapacitated persons' quality of life (Teaster & Roberto 2002).
- Originally sheriffs served as guardians of last resort, but were removed from this responsibility three years ago, leaving many communities with no legal source of personal or financial decision-making for at-risk individuals.
- The legislative intent in enacting the Public Guardianship Program was that it would serve statewide -- that the initial local programs would become self-sufficient, allowing available funds to be used as seed money for additional local programs. This has not occurred, however, because service to the indigent is not lucrative, grants increasingly are difficult to obtain, and guardianship is demanding work for the limited staff of each program.
- Several areas of the state remain uncovered and close to 2,000 at-risk individuals presently lack guardians despite the willingness of many agencies throughout the state to serve.
- NVAN urges the General Assembly to build on the present level of funding ($500,000 a year to support the 10 local programs, plus $105,000 for administration) by adding $250,000 for five new programs (at $50,000 per program). The General Assembly should continue adding funds incrementally until all areas of the Commonwealth are covered. This request also is supported by the Public Guardian and Conservator Board, the Virginia Guardianship Association and the Commonwealth Council on Aging.

NVAN Fact Sheet -- Mental Health Services for Older Adults with Mental Illness and Dementia

NVAN supports measures to help older Virginians with serious mental illness and dementia get the psychiatric placement and services they need. This population has been "defined out" of mental health services and frequently faces closed doors.

- The older adult population is expanding rapidly, yet there has been a gradual process of "defining older persons out" of the existing mental health system of services -- in part by excluding dementia as a valid diagnosis for admission to psychiatric programs.
- The Department of Mental Health, Mental Retardation and Substance Abuse (DMHMRSAS) Priority Population Criteria and the Department's State FY 2003 Community Services Performance Contract provide that "admission to state psychiatric hospitals and institutions is *not appropriate* for individuals with a diagnosis of dementia . . . unless they also have significant behavioral problems, as determined by qualified state facility staff" (Performance Contract Sec. I(A)(2)(c)). This assessment is made by the state facility *without directly examining the client* but only on the basis of a verbal or written report, and in effect overrides the face-to-face assessment in the commitment process.
- Moreover, the DMHMRSAS Priority Population Criteria for Seriously Mentally Ill individuals tends to favor persons under age 65 in general. For example, the criteria include ability to function well enough to maintain employment, yet most older adults are not in the work force. A revision of the criteria would recognize the special psychological, social, and biological circumstances of older adults.
- In addition, our system of care assumes by default that nursing homes can provide for acute psychiatric needs of older individuals with dementia and mental illness when in fact nursing homes are not staffed for this function (and appropriately have greater restrictions on the use of restraining safety measures than do psychiatric hospitals).
- Nursing homes simply do not have the resources or training to accept clients who require intensive psychiatric treatment or who exhibit difficult behaviors, and are not able to care for them when their conditions deteriorate.
- Under federal Medicaid law, individuals with a serious mental illness have an additional screening for nursing home admission to ensure provision of specialized mental health services – but persons with dementia are excluded from this screening (U.S. Dept. of Health & Human Services, *Screening for mental Illness in Nursing Facility Applicants*, 2001).
- Community mental health services frequently are the most effective treatment for helping older adults with dementia avoid institutionalization and remain in least restrictive settings.
- Because the problems of older adults with dementia and mental illness are so intractable, acute and complex – and increasing at an alarming rate – NVAN recommends that the Joint Commission on Health Care's behavioral health subcommittee conduct a study of issues related to psychiatric hospitalization and institutional placement, as well as community resources, for this growing and needy population.

NVAN Fact Sheet -- Ensure Quality Health Care: Pain Management

NVAN urges the General Assembly to develop a pain management standard in long-term care facilities. The Commonwealth should recognize an individual's basic need to be free from physical pain and should protect health care providers from prosecution in their good faith efforts to manage pain.

- Research shows that up to 85% of nursing home residents have physical pain – yet pain is *not* a normal part of the aging process. Pain reduces mobility, which in the elderly significantly increases mortality. Pain diminishes the immune system, putting the elderly more at risk for opportunistic infections such as pneumonia. Pain stresses the heart, increases blood pressure and reduces insulin response. Pain causes depression, anxiety, and suicidal thoughts. Untreated pain "rewires" the neurological pathways so that the pain can remain and even grow and spread after the underlying original cause of pain is cured. Several recent studies show that a large percentage of older nursing home residents have a significant amount of pain. Frequently acute illnesses accompanied by pain go undetected in nursing home patients with dementia.
- **A 2002 report on dying in America** showed that 39.1% of nursing home residents in Virginia have persistent pain; and **gave Virginia a "D" on "strength of state pain policies."** The report also indicated that while 31 states have end-of-life care initiatives, Virginia does not. (Last Acts, Partnership for Caring, *Means to a Better End: A Report on Dying in America Today*).
- A recent study of 2,065 nursing facility residents (Cramer et. al., *Journal of the American Geriatric Society,* Vol. 48, 2000) found that: 76.8% reported chronic pain, and received at least one selected analgesic for pain; 40.6% of residents received no pain assessment during the 3-month study period; 41.8% of residents were assessed for pain by observation only; 16.6% of residents were assessed by objective measures (i.e., numeric pain scales); and 69.4% of residents received no non-pharmacological therapy for pain.
- The *Journal of the American Medical Association* (Teno et. al., 2001). reported that 41.2% of nursing home residents who have pain on their first assessment experienced moderate daily pain or excruciating pain on their second assessment conducted 60 to 180 days later. These statistics were collected only from persons who did not have dementia.
- An extensive study of nursing home patients showed that nurses consistently underestimated pain levels in residents – choosing to treat grimacing, etc., as signs of psychological distress rather than physical pain. Family members were significantly better at judging the degree of pain. (Weiner, D. *Pain*, Vol. 80, 1999)
- A comparative study (Morrison, *Journal of Pain & Symptom* Management, Vol. 19, 2000) of elderly patients with and without dementia who had broken hips or pneumonia showed that those with dementia received less than half the pain medications given to others.
- The American Geriatrics Society introduced New Guidelines on Pain Management in May 2002. Pain standards are available from the following: American Geriatric Society, AMA/EPEC, American Pain Society/American Academy of Pain Management, AMA Ethical Standards 2.17.

NVAN Fact Sheet: Availability of Assistive Technology

NVAN supports measures to increase training in the use of assistive technology products and low-cost home modification so older adults can retain/regain personal independence, minimize caregiver burden, and reduce health costs.

- Activities of Daily Living (ADLs) creating daily problems for older Virginians include getting in/out of bed, bathing, eating, dressing, toileting, moving around inside the house and getting outside for mail pick-up.
- Use of assistive technology products and home modification interventions can dramatically minimize these basic functional limitations.
- Assistive technology products are critically needed by older Virginians because *11.2%* of Virginia's population is age 65+. Among the over 627,000 persons in that age group, *132,083* individuals experience mobility or self-care limitations.
- National research outcomes demonstrate that physically frail elders who received assistive technology and home modification interventions improved their functional independence; and significantly lowered health costs resulting from hospital and nursing home stays ($5,630 vs. $21,846).

NVAN supports funding to expand the programs for hearing assistive technology such as hearing aids and other communication devices for people with hearing loss.

- According to the national organization Self Help for Hard of Hearing People, Inc. (SHHH), 75% of people who could benefit from hearing aids are not using them, about 30-35% of adults between the ages of 65 and 75 years have a hearing loss, and it is estimated that 40-50% of people 75 and older have a hearing loss. Hearing loss is extremely isolating, and can dramatically affect the ability to communicate. It can lead to social withdrawal and depression.

NVAN Platform Background: Additional Measures

In addition to the key priorities stated in its 2004 Legislative Platform, NVAN supports the following measures to maximize independence and promote services for older Virginians:

- The development of new plans to finance **prescription medications** for older Virginians and Virginians with disabilities.

- An increase in **Medicaid eligibility** from 80% ($7,184 for a single person) to 100% ($8,980 for a single person) of the Poverty Level, which will begin to address the pressing need for prescription drug assistance.

- A revision in the assisted living **Auxiliary Grant** program to make it completely state-funded by eliminating the local match;

- An increase under the Medicaid "Elderly and Disabled Waiver" in the **personal maintenance allowance** -- the amount an individual is allowed to keep to support costs of living in the community such as rent, food, clothing and transportation – from 100% (annually $6,864 for a single person) to 300% (annually $20,592 for a single person) of the SSI benefit level (see 2002 Joint Commission on Health Care study).

- Initiatives in **adult protective services** (APS) to: (1) increase education for mandated reporters of elder abuse; (2) increase involvement of the criminal justice community in preventing elder abuse; and (3) develop a multi-disciplinary coordinating committee to focus on adult protective services statewide.

- A study **of adult foster care**, an under-utilized but promising option for some older Virginians -- including ways both to promote wider use and to expand resources for appropriate government oversight.

- Increased funding **for long-term care ombudsman services**, which provides advocacy for vulnerable residents in long-term care facilities.