

City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 19, 2006

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER *J*

SUBJECT: RECEIPT OF PROPOSED CITY LEGISLATIVE PACKAGE FOR THE 2007 GENERAL ASSEMBLY SESSION

ISSUE: Receipt of proposed City Legislative Package for the 2007 General Assembly Session.

RECOMMENDATION: That City Council:

- (1) receive the proposals for the City's 2007 Legislative Package;
- (2) schedule the legislative package proposals for public hearing on Saturday, November 18;
- (3) schedule the proposed Charter amendment for public hearing on Saturday, November 18; and
- (4) schedule adoption of the Legislative Package for Tuesday, November 28, following Council's work session with the General Assembly delegation.

DISCUSSION: For the past several months, staff has been working with Council members, City departments, and boards and commissions to develop legislative and funding proposals for the City's 2007 Legislative Package. Thirty such proposals are described below for your consideration as 2007 legislative package proposals. Section 1 contains legislative proposals that staff recommends the City seek to have introduced by our delegation; Section 2 contains legislative proposals that staff recommends that the City support; and Section 3 includes proposals that staff recommends that the City oppose. All the proposals are also summarized in the list entitled "City of Alexandria 2007 Legislative Package Proposals" (Attachment 1).

The 2007 General Assembly Session will be a "short" 60-day Session, beginning January 10, and ending February 24. On December 15, 2006, Governor Tim Kaine will submit his proposed amendments to the current biennial budget.

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 2007 General Assembly Session.

1. Requests for Legislation to Be Proposed

1.A. Preservation of Structures in Historic Districts (Charter Change; Councilman Krupicka)

Section 9.09 (j) and (j-01) of the City Charter set out many of the provisions which allow City Council to protect the City's historic districts. Among the provisions addressed here is the right of a property owner under certain circumstances to move or demolish a structure. The Charter currently allows an owner to do so if he has:

- applied to the Board of Architectural Review to do so, and to City Council on appeal, and been denied;
- made a good faith offer to sell the structure for its fair market value to a party that will preserve the structure; and
- received no purchase offers during the period of time set out in the Charter as the minimum time to receive offers from buyers (one year for any property with an offering price of \$90,000 or more).

If a buyer makes a good faith offer to buy and preserve the building or structure, but the owner rejects the offer, the owner will not be entitled to demolish the building or structure.

Councilman Krupicka recommends that the Charter be amended to make clear that the fair market value must be based on the assumption that the historic structure will not be moved or demolished—not the value of the property if the structure is demolished and replaced with something else.

1.B. Requiring Drivers to Stop for Pedestrians at Marked Crosswalks (Councilman Krupicka; Regional Position)

Pedestrian safety is a major issue in Virginia. As the number of cars and drivers has increased substantially in recent years, the ability of those who are walking to feel and be safe has decreased. While this is especially true in heavily congested communities, such as those in Northern Virginia and Hampton Roads, it is a problem everywhere, including small towns and rural areas. The high volume of traffic, and uncertainty about whether drivers will actually yield, often makes it difficult for pedestrians to safely cross roads, even at crosswalks.

Current law (Va. Code § 46.2-924) requires drivers to yield, but not stop, at any clearly marked crosswalk where the speed limit does not exceed 35 miles per hour. Many people believe that pedestrian safety would be enhanced if drivers were required to stop for pedestrians at crosswalks. Legislation to require drivers to stop for pedestrians in crosswalks has been pursued unsuccessfully in several recent sessions of the General Assembly. A bill (HB 1211, 2006) introduced as part of the City Package came close to passage in 2006, but was ultimately sent to the House Courts of Justice Committee for further study. Councilman Krupicka has asked that the City continue to support this carryover legislation. If the Courts of Justice Committee defeats

it or takes no action on it, he recommends that the City ask its delegation to have the legislation reintroduced in January.

1.C. Creation of Arts and Cultural Districts (Councilman Krupicka)

The Code of Virginia (§15.2-1129.1) authorizes certain localities, by ordinance, to create arts and cultural districts to increase awareness and support for the arts and culture in the locality. Currently, the Cities of Charlottesville, Falls Church, Harrisonburg, Petersburg, and Winchester, and the Town of Chincoteague have this authority. These localities may provide tax incentives including, but not be limited to, a reduction in permit fees, user fees, or gross receipts taxes. Localities may also provide for regulatory flexibility in these districts, again including but not limited to special zoning, permit processing, exemptions from certain ordinances, and other incentives. The tax incentives and regulatory flexibility can be effective for up to 10 years.

Councilman Krupicka has asked that the City pursue legislation to authorize Alexandria to create such a district. Mayor Euille has asked that the Commission on the Arts review this proposal; the Commission is scheduled to do so at its October 17 meeting. Staff will report back with any comments from the Commission at Council's October 24 meeting.

1.D. Requirements for Filings by PACs That Become Newly Active Just Before an Election (Councilman Krupicka)

The Code of Virginia sets out a number of requirements that must be followed by political action committees (PACs) that anticipate accepting contributions or making expenditures in excess of \$200 in a calendar year. These include the filing of a statement of organization within 10 days after its organization (or 10 days after it anticipates that it will receive contributions or make expenditures). The statement of organization includes information about those who are responsible for the PAC's records and finances, as well as the candidates that the PAC is supporting in an upcoming election.

If a PAC makes an indirect contribution to a candidate in the last 10 days before the election (e.g., purchases space in a newspaper to endorse a candidate), it is possible that the election will be over before the public knows who was actually responsible for the contribution. If a candidate, on the other hand, receives any direct contribution during the last 12 days prior to an election, the candidate must report it to the electoral board by 5 p.m. the following day; and if a contribution is received within the 24 hours prior to the election day, it must be reported on the day prior to the election.

Councilman Krupicka believes that the public should have the same knowledge about last-minute PAC contributions as it does about last-minute candidate contributions. He recommends that the City seek to have the State Code amended to ensure that this occurs.

Staff sent this proposal to the Alexandria Electoral Board for comment. The Board replied that it does not believe that such filings are within its purview, and it would therefore be inappropriate

for the Board to comment. City staff will discuss this proposal with staff from the State Board of Elections in the near future.

1.E. Funding for the Rehabilitative Services Incentive Fund (Alexandria Commission on Persons with Disabilities)

The Alexandria Commission on Persons with Disabilities has asked that the City seek increased state funding (\$732,500) for the Rehabilitative Services Incentive Fund (RSIF). The General Assembly created the RSIF in 1994 to promote investment in meeting the needs of individuals with physical or sensory disabilities, by expanding existing or creating new services for disabled persons. Appropriations to the Fund were reduced as part of the State's response to general fund revenue shortfalls several years ago. The City of Alexandria has used RSIF grants for a variety of programs, including an improved reservation system for the DOT Paratransit service, housing grants, talking buses, and a pilot test of audible pedestrian traffic signals. An RSIF-funded assistive technology project at *JobLink* was recognized by the Department of Labor as a national model.

The Commission recommends that appropriations to the RSIF be restored to \$912,500 (the same level of funding as in FY 02) for each year of the upcoming biennium. Budget amendments to accomplish this in the 2006 Session were unsuccessful.

1.F. Condominium Conversions—Sales to Non-profits (Landlord-Tenant Relations Board, supported by Human Rights Commission)

The Landlord-Tenant Relations Board recommended that the delegation introduce legislation in 2006 that would give a tenant in a condominium conversion who is disabled or elderly, and eligible for a 3-year lease or lease extension under current law and ordinance, the ability to assign the right to purchase his unit to a government agency, housing authority or nonprofit housing corporation for the purpose of leasing that unit back to the tenant and keeping the unit as affordable housing. Tenants in condominium conversions already have the right to purchase their units for 60 days after the owner registers the conversion with the State. The Landlord-Tenant Relations Board believes that such legislation will help the City preserve existing affordable housing.

This legislation was considered in the 2006 Session, but carried over to the 2007 Session for study by the Virginia Housing Commission. Staff recommends that the City continue to pursue this legislation. Delegate Englin, who introduced the legislation on the City's behalf last year, plans to reintroduce it this year.

**1.G. Monitoring and Enforcement for Opacity Violations with Respect to Air Emissions
(Mayor Euille and Councilman Smedberg)**

Opacity is one of the factors used to measure the quality of an air emission from a permitted facility, such as a power plant. If a facility violates any opacity limits, it often indicates problems with other factors, such as PM-2.5 or PM-10.

According to Department of Environmental Quality (DEQ) staff, under federal law and regulation, facilities that are regulated by the federal government can be charged with an opacity violation if a federal inspector witnesses it during an inspection, or if continuous emission monitors that are required by the facility's permit indicate that a violation has occurred.

DEQ staff have also advised City staff that Virginia State Air Pollution Control Board regulations require an opacity violation to be witnessed by a DEQ inspector in order for the facility to be considered in violation of its permit. Violation of an opacity monitor is not considered a permit violation. Since air quality permits in Virginia are enforced by DEQ, and not EPA, permittees cannot be charged with a violation under the federal regulations.

Staff recommends that the City ask its legislative delegation to introduce legislation that would make monitored exceedences of permitted opacity limits violations under Virginia law and regulation just as they are under federal law and regulation.

2. Requests for Legislation to Be Supported

**2.A. Statewide Transportation Funding, Including Metro and VRE, and Related Issues
(Northern Virginia Regional Position)**

Localities throughout Northern Virginia, Hampton Roads, and other areas of the state have made new transportation funding a top legislative priority for several years. Prior to and during the 2004 and 2006 General Assembly Sessions, as well as the recently completed but unsuccessful 2006 Special Session, a number of proposals to increase transportation funding were supported by the City and other local governments but defeated by the General Assembly. Among these were increases in taxes, fees, tolls, and penalties on abusive drivers. Unfortunately, none of these efforts was successful.

The need for new funds is especially acute since Congress is considering the appropriation of additional federal funding for Metro if the Metro member localities can provide matching dedicated funds (this legislation has now passed the House of Representatives and awaits action by the U.S. Senate).

Staff recommends that the City make transportation funding, and especially funding for transit, a top priority in its 2007 Legislative Package. In addition, this is a regional recommendation from the other Northern Virginia localities.

Vice Mayor Macdonald has also recommended that the City support appropriate transportation planning legislation that will help address congestion and related issues. Consequently, staff will bring transportation planning legislation that may affect the City to Council and its Legislative Subcommittee for its review.

2.B. Homestead Exemptions (Mayor Euille)

During his 2005 gubernatorial campaign, Governor Tim Kaine proposed an amendment to the Virginia Constitution to authorize localities to give homeowners who live in their homes a homestead exemption of up to 20 percent of the value of their property when determining their property taxes. Governor Kaine has indicated that he intends to pursue this legislation the 2007 Session.

The Virginia Municipal League (VML) and the Virginia Association of Counties (VACO) want to ensure that any such legislation would not be detrimental to localities. The two organizations' Finance Committees, which are chaired respectively by Mayor Bill Euille and Arlington Board member Barbara Favola (Arlington County Board), are working together to ensure that any proposed amendment will be acceptable to local governments. Mayor Euille and Board member Favola have met with Governor Kaine, who expressed his willingness to work with VML and VACO on this issue.

VML's Legislative Committee discussed this issue at its meeting last month, and adopted the following policies, which will be refined prior to their consideration for adoption at VML's annual business meeting on October 17:

- VML supports the current constitutional requirement for fair market valuation of property.
- VML supports efforts to relieve homeowners of excessive tax burdens.
- Any changes to the real estate tax must be "local option" (adopted at the discretion of the local governing body). Local officials must bear the responsibility for providing adequate services, therefore they should be able to control the revenues to do so.
- VML urges the timely adoption of measures that can help to provide local governments with tax flexibility. A constitutional amendment would not help to provide relief until 2009.
- VML supports legislation allowing for the establishment of residential and non-residential as separate classifications of property, for purposes of taxation.
- Changes to taxes should be simple to administer and revenue neutral.
- VML supports a real estate Homestead exemption, on a local option basis, granting local elected officials maximum authority to establish fiscal policies specific to their jurisdictions.

Staff recommends that the City endorse the VML position on this issue. Staff also notes that because of changes in the the real estate market, increases to residential real estate assessments are expected to be substantially lower than in recent years.

2.C. Funding to Clean Up the Chesapeake Bay (Vice Mayor Macdonald)

The General Assembly in past years has proposed a number of ways to help pay for the cleanup of the Chesapeake Bay. The two most recent General Assembly Sessions (2005 and 2006) provided significant new state general fund money (\$50 million for FY 06, and \$200 million for the current biennium) to help pay for upgrades to sewage treatment plants that will reduce discharges of nutrients to the Bay. The City supported these proposals.

Since this is a long-term problem, Vice Mayor Macdonald recommends that the City continue to support any reasonable long-term solution recommended to address this problem. If Council concurs, staff will bring specific recommendations to Council for its consideration.

2.D. Smoking in Restaurants (Vice Mayor Macdonald)

Legislation to prohibit smoking in restaurants or other buildings frequented by the public was proposed in the two most recent General Assembly Sessions. In 2005, Senator Bill Mims introduced legislation that would have prohibited smoking in most public places (including restaurants) throughout Virginia. The bill was approved in committee but died on the Senate floor. In 2006, Senator Brandon Bell (Roanoke County), introduced similar legislation, which was approved by the Senate, but died in the House General Laws Committee. Legislation is likely to be reintroduced in the 2007 Session, and Governor Kaine has indicated that he might support it if it applies only to restaurants.

Vice Mayor Macdonald has asked that the City's legislative delegation support legislation to give any locality the authority to prohibit smoking in restaurants within its jurisdiction, or otherwise limit smoking in public.

2.E. Water Conservation (Vice Mayor Macdonald)

Although we commonly think of many of our natural resources as unlimited in quantity, this is not always the case. When we look at our nearby lakes and rivers, it is hard to imagine that we could ever run out of water. Water supply issues, however, are much more complicated than this. Not only must there be sufficient water for us to withdraw to meet our drinking water and other needs—there must also be enough left in a river or stream to meet the needs of the aquatic life that lives there, and any other reasonable downstream needs. In light of this, Vice Mayor Macdonald has asked the City to support any reasonable legislation that is introduced in 2007 that will encourage water conservation.

2. F. Payday Lenders (Councilman Krupicka; Human Rights Commission; Consumer Affairs Commission)

A payday loan is typically a small (often several hundred dollars) loan that is secured by a borrower's post-dated check (usually dated for the borrower's next pay day) to cover the loan's principal and interest. Payday loans involve extremely high interest rates (equivalent to as much

as 300 to 400 percent annually). Those who receive payday loans are often people with low incomes who find it difficult to pay such high interest rates. Since payday loans were authorized by the 2002 General Assembly, they have become available at over 800 locations throughout Virginia.

Legislation introduced in the 2006 Session to prohibit these loans was carried over to the 2007 Session (the City supported this legislation). Councilman Krupicka recommends that the City ask its delegation to support such legislation again in the upcoming Session. The Consumer Affairs Commission also recommends that the City support the legislation, as does the Human Rights Commission, which is concerned that payday loans may have a disparate impact on certain protected classes.

2.G. Child Day Care Funding (Regional Position)

On May 9, the Virginia Department of Social Services notified all localities that, effective June 1, 2006, federal funds for the Child Day Care Fee System would be cut by approximately 80 percent. For Alexandria, this translates to a reduction of \$384,000, which means we can provide families with funding for 52 fewer children.

As a result, Alexandria's Department of Human Services had to establish a waiting list for the first time in several years. The waiting list, as of September 7, was 277 families with 325 children. Other localities in Northern Virginia and throughout the state are also affected by these program cuts, and will seek additional funding in the 2007 Session.

Staff recommends that the City support additional state funding for this program. In addition, this is a regional recommendation from the other Northern Virginia localities.

2.H. Virginia Association of Community Services Boards (Regional Position)

The Virginia Association of Community Services Boards (VACSB) has developed a series of state budget priorities (Attachment 2) for the upcoming Session, and the Alexandria Community Services Board (together with other Northern Virginia CSBs) has recommended that the City support the VACSB platform.

The VACSB priorities attempt to help CSB consumers live and participate in their communities on a long-term basis. The Northern Virginia CSBs have identified four priorities in the VACSB package of particular importance to this region. If funded, these priorities will allow the region to continue its promotion of innovation and quality care while assuring efficiency and cost effectiveness. The four priorities are:

- **\$2,350,000 for a Regional Specialized Pilot for Geriatric Adults with Mental Illness.** The focus of this pilot, which will serve 450 older adults in the region annually, is on diverting the growing number of geriatric consumers in the region from being hospitalized at Eastern State Hospital (in Williamsburg) and allowing them to remain in Northern

Virginia. It will also provide community supports for those geriatric patients being discharged from Eastern State Hospital. The funds requested will be used to create a regional specialized gero-psych team, a specialized nursing home team, community supports, and purchase of private hospital beds. The services will help keep older individuals with mental illness in the community while diverting them from costly, unnecessary, and often lengthy hospitalizations.

- **\$2,160,580 for Expansion of the Regional Discharge Program for Adults with Mental Illness.** These funds will be used to serve 55 adults annually who are ready for discharge from State or private psychiatric facilities but who require specialized, intensive services to live successfully in the community. The services often includes residential assistance, medications, and other community supports such as day placement and vocational help. Some of these people may also need services to deal with complex medical problems.
- **\$2,780,000 for Local Inpatient Purchase of Services (LIPOS) for Adults in Need of Psychiatric Hospitalization.** These funds would be used to purchase 7 psychiatric beds from a private hospital in Northern Virginia; the 7 beds would serve 400 adults annually. The funds will also be used to cover a projected \$360,000 shortfall in LIPOS funds for the current fiscal year.
- **Increase Mental Retardation Day Support Medicaid Waiver reimbursement rates by 14 percent for all services, and provide an 18 percent differential for Northern Virginia Medicaid Services.** Vendors in Northern Virginia have significant difficulties recruiting and retaining qualified staff due to the high cost of living and the relatively small pool of job applicants. CSBs are concerned about a potential increase in critical incidents due to the lack and inexperience of some staff. Once staff are trained and they get some experience, they often move on to higher paying jobs outside the agency. Several vendors in Northern Virginia have expressed concern that they may no longer be able to operate due to the high cost of providing services and the inability to find and retain qualified staff.

2.I. Red Light Cameras (Councilman Krupicka and Northern Virginia Regional Position)

From 1997 until 2005, when State authorizing legislation expired, Alexandria had a red light camera enforcement program. Under the program, a private vendor under contract with the City took photographs of motor vehicles that ran red lights at several City intersections. The vehicles' owners were then identified, using Virginia Department of Motor Vehicles records, and the owners were sent notices of violation and required to pay a \$50 fine. This program was very effective in helping to reduce red light violations in the City.

The 2005 General Assembly Session refused to repeal the program's 2005 sunset provision; consequently, the City ceased operating its program on June 30, 2005. Staff expects bills to be filed in the upcoming Session to reinstate the program, and recommends that the City support this legislation. Other Northern Virginia localities are also expected to support the legislation.

2.J. Electric Utility Deregulation (Councilman Krupicka; Consumer Affairs Commission; Northern Virginia Regional Position)

The 1999 General Assembly passed legislation to deregulate electric utilities in Virginia and provide consumers more than one source from which to purchase their electricity. Proponents said that deregulation would spur competition and ultimately result in lower prices. Beginning in 2011, under this legislation, utility companies will be able to set their prices without the traditional approval by the State Corporation Commission.

Since the passage of the 1999 legislation, competition has not surfaced, and most if not all Virginia customers must purchase their electricity from the same company that served them prior to 1999.

Virginia was not the only state to begin the deregulation process. A number of other states, including Maryland did, and some of them are further along in the process. In some cases where companies have been allowed to set their rates, consumers have seen significant price increases. In Maryland, utilities proposed price increases of up to 75 percent earlier this year.

The City's Economic Opportunities Commission (EOC) is concerned that the experience of other states, will be repeated here in the Commonwealth when deregulation is fully implemented in 2011. The EOC is aware that the General Assembly has established a subcommittee to carefully review this issue. The EOC urges the City to ask its delegation to support any legislative proposals in the 2007 Session or subsequent sessions to ensure that true competitive pricing occurs when the current rate freeze expires. The EOC also asks that measures be taken to ensure that Virginia consumers, especially those who are less affluent, do not experience significant rate increases once utilities are allowed to set their own rates. The Consumer Affairs Commission concurs with the EOC recommendations.

2.K. Increasing the Minimum Wage--The Virginia Fair Wage Act (Economic Opportunity Commission)

Several coalitions promoting legislation to help the homeless and the less affluent sponsored legislation in 2006 to increase the minimum wage in the Commonwealth by \$1 a year for three years, bringing it to \$8.15 in the third year (the federal minimum wage, which is the standard in Virginia, has been set at \$5.15 an hour for nearly 10 years). Subsequently, they proposed that the minimum wage in Virginia be indexed to consumer price index. This legislation, which the City supported, failed to pass.

Groups that advocated this legislation in 2006 plan to offer the same or similar legislation in the 2007 Session. The EOC urges the City to ask its delegation to continue to support any such proposals.

2.L. The Virginia Housing Trust Fund (Economic Opportunity Commission)

The City of Alexandria (and other localities such as Fairfax County) has recently established a local housing trust fund and designated local tax revenue to provide an ongoing and guaranteed source of revenue to support affordable housing. The Virginia Housing Coalition proposed legislation in 2006 to establish a statewide Housing Trust Fund with a designated source of revenue from the Commonwealth's recordation tax on real property transactions. The legislation included a feature that would have allowed the State Fund to match funds from localities that maintain a local housing trust fund (like Alexandria). The Virginia Housing Coalition, with support from the Virginia Coalition to End Homelessness, will seek House and Senate sponsors to introduce this or similar legislation in 2007 (the Virginia Housing Commission, which supported last year's bills, may recommend this or similar legislation that the 2007 Session reconsider the 2006 bill, or they may recommend another approach for dealing with the issue).

The EOC urges the City to ask its delegation to continue to support any such proposals.

2.M. Human Trafficking (Human Rights Commission)

In the 2006 Session, several legislators introduced legislation that would have made it a felony to recruit another person for forced labor or sexual activity. None of these bills passed. The Fairfax City Commission for Women is seeking to have similar legislation introduced in 2007.

The Alexandria Human Rights Commission has dealt with cases of human trafficking here in the City, and recommends that the City ask its legislative delegation to support legislation to criminalize this activity.

2.N. Base Realignment and Closure Commission (Regional Position)

Alexandria and other Northern Virginia localities are being significantly impacted by the recommendations of the Base Realignment and Closure Commission. As a result of the 2005 BRAC decisions, 20 Department of Defense (DoD) agencies and commands currently operating in leased office space in the City were directed to realign or close their operations. The City expects to lose approximately 7,370 Department of Defense and related private sector jobs, which equates to about 7.5 percent of all employment in Alexandria. The BRAC decisions are expected to leave 1.5 million square feet, or 8 percent, of the City's existing office stock vacant.

In the current biennial budget, the State appropriated \$25 million to assist localities impacted by BRAC. Approximately \$15 million of this is expected to go to the City of Virginia Beach to assist it with efforts underway to ensure that operations are not transferred from Oceana Naval Base. Given the large numbers of workers moving from rental space, mainly in Alexandria and Arlington, and the infrastructure improvements needed around military bases that are being expanded (e.g., Fort Belvoir and Quantico), additional state assistance is needed for all affected localities. Staff recommends that the City ask its legislative delegation to support additional BRAC funding in the 2007 Session. This is also a Northern Virginia regional position.

2.O. Increased State Funding for Court System Employees (Northern Virginia Regional Position)

Fairfax and Arlington Counties are considering budget amendments to increase the amount of money the state pays localities for magistrates, public defenders, and other court employees. Staff from the State's Indigent Defense Commission have also been discussing the need for salary increases for some of these employees with the Governor's staff. Staff recommends that the City support these efforts, which would also benefit Alexandria if they are successful. The City already subsidizes most court system employees, so any additional funds that the state provides would likely lessen the amount of City funding that is needed for these salaries.

2.P. Payments to Foster Care Parents (Social Services Advisory Board)

The state provides funding to cover some of the costs incurred by foster parents. This ranges from \$312 monthly for a child 4 years old or younger, to \$463 for a child 13 or older. This covers far less than the foster parents' actual costs (the federal government estimates that it costs \$908 a month to raise a child), and is lower than the rates in neighboring states or the national average. The City has asked the Governor's staff to increase these rates in the upcoming budget to the national average (\$423 to \$497, depending on age), and the City's Social Services Advisory Board recommends that the delegation support such an increase if included in the budget. The City has asked in the past to have these rates increased. Mayor Euille has written a letter to Governor Kaine, asking him to propose increased funding for this purpose in budget amendments he will propose for the 2007 Session. Staff recommends that the City ask its legislative delegation to support any such budget amendments.

2.Q. 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's NVAN platform (Attachment 3) asks that the General Assembly provide funding that will assist older Virginians in a number of areas. These include:

- Support for in-home and community-based services to reduce the number of residents requiring nursing home care.
- Funding for intensive older adult mental health services, including a Northern Virginia regional geriatric mental health team.
- Support for a Livable Home Tax Credit for taxpayers who build or purchase a newly constructed residence with accessibility features.
- Money to address continuing challenges, such as transportation for seniors; increases to the nursing home personal needs allowance; and increases to the Assisted Living Auxiliary Grant.

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

2.R. Affirmation of Marriage Act (Human Rights Commission)

The 2004 General Assembly enacted legislation titled The Affirmation of Marriage Act, which prohibits any “civil union, partnership contract or other arrangement between persons of the same sex purporting to bestow the privileges or obligations of marriage.” Although the patron of the legislation portrayed it as a statute aimed at ensuring that Virginia is not required to recognize civil unions that were legally entered into in other states, many others fear that it will have other significant, far-reaching effects. The City opposed this legislation, noting the potential it has to cause serious unintended consequences such as the voiding of existing contractual rights, the prohibition of certain contracts between two people of the same sex (regardless of their sexual orientation), the inability of business partners of the same gender to enter into a partnership agreement outlining the division of property if the partnership dissolves, and the voiding of medical directives designating a close friend of the same sex to make necessary medical decisions. Since the law’s passage, the City in its legislative packages has sought the law’s repeal.

The Human Rights Commission has asked the City to continue to support any efforts to repeal the Affirmation of Marriage Act. City Council Resolution No. 2142, passed on March 8, 2005, states that City Council opposes any state legislation, including constitutional amendments, that would define marriage as only between a man and a woman (Attachment 4)

2.S. Housing Discrimination Based on Source of Income (Human Rights Commission)

In 1968 the federal government passed the Fair Housing Act, which prohibits housing discrimination based on factors such as race, color, religion, national origin, sex, elderliness, or familial status. Virginia enacted similar legislation in 1972.

In recent years a number of states have added source of income to the list of discriminatory factors which are prohibited under their fair housing laws. Source of income is generally defined as any lawful source of income paid directly or indirectly to a renter or purchaser of housing, including wages, pensions, alimony, child support, or government assistance. States have made this change in response to renters especially, who say that landlords will not rent to them because a portion of their income is from government assistance, such as Section 8; or because landlords set higher security deposits or higher minimum incomes for them.

The City’s Human Rights Commission has recommended that the City support any legislation introduced in the 2007 Session that would make it illegal to discriminate in housing based on source of income.

2.T. Mayors Against Illegal Guns (Mayor Euille)

Mayors from over 100 cities around the country have begun a new initiative aimed at reducing the possession, use, and trafficking of illegal guns. The mayors will oppose any state or federal legislation that would make it easier to traffic in illegal weapons. They do not intend to question any Second Amendment rights or infringe on the lawful possession of handguns and other weapons; their only interest is in fighting crime. They will support legislative proposals at the state and federal levels to target illegal guns; increase enforcement of existing gun laws; and increase penalties for criminals who possess, use, and traffic in illegal guns. Alexandria's recent spate of shooting incidents, especially those including teenagers, have created concerns for all of us in this regard.

Mayor Euille recommends that the City asks its legislative delegation to support any legislative proposals that target illegal guns, and to oppose anything that would make it easier to traffic in illegal weapons. City staff will identify any specific legislation in this regard and will bring it to the Council's and the delegation's attention.

3. Requests for Legislation to Be Opposed

3.A. Alexandria Jail Federal Prisoner Per Diems

Several years ago the General Assembly began requiring most localities to remit to the State a portion of the federal payments they receive for housing federal prisoners. The rationale for this initiative is that the State pays a portion of the salaries of deputy sheriffs, and so the State is entitled to a portion of the per diems. The State receives over \$7 million annually from these local federal per diems. Several jails, including the Alexandria jail, were exempted from this requirement because the federal government had paid a larger share of the jails' capital costs than the State had. In Alexandria, not only has the State paid very little of the jail's capital cost, but the City pays far more of the jail's operating costs than either the State or the federal government does.

Perennial efforts are made to eliminate the City's exemption. Staff recommends that the City ask its delegation to continue to strongly oppose any efforts to remove the City's exemption from the State's cost recovery requirements for federal jail per diem payments to localities.

3.B. Restrictions on Services to Immigrants and Related Issues (Mayor Euille)

Immigration policy and enforcement of federal immigration laws is increasingly becoming an issue in Virginia and other states. Estimates by the Pew Hispanic Center and other researchers place the number of illegal immigrants in the United States in excess of 10 million. While many would characterize these people as integral to the ongoing economic prosperity of the country, others complain that undocumented aliens make use of government resources that should go to citizens and legal immigrants. Dealing with the issue of undocumented aliens is a very complex matter. Legislation passed overwhelmingly by the 2005 General Assembly prohibits state or local

governments from giving undocumented aliens any public services, yet even that legislation provided for exceptions that allowed public services to continue for some undocumented aliens, such as children. It is also unlikely that anyone would object to extending benefits to undocumented aliens that would also benefit the public at large (e.g., treatment of communicable diseases).

Some local governments, especially in Northern Virginia, have recently funded day labor centers, where employers can hire day laborers, some of whom may be undocumented aliens. In these cases, the local governments are trying to deal with issues that have nothing to do with undocumented aliens, such as day laborers congregating outside small businesses. The construction of day labor centers in these cases gives the day laborers a place to gather and wait for jobs where they are not blocking store or other business entrances. Local governments are best-suited to determine whether a day labor center helps the locality deal with a community problem.

Some state officials have also proposed that local law enforcement officers should help enforce federal immigration laws. Local governments oppose this proposal, at least in part because no money is being provided to reimburse local governments for these costs (this would be an unfunded mandate). Illegal immigration is a federal problem and a federal crime that should be addressed by the federal government.

Mayor Euille has asked that the City ask its legislative delegation to oppose further restrictions on the ways local governments deal with undocumented aliens (each local government should be able to determine the best policy to address its needs), and to oppose any legislation that would seek to have local law enforcement officials enforce federal immigration laws.

3.C. Undocumented Students (Human Rights Commission)

Some members of the General Assembly attempted to enact legislation in the 2003 and 2004 Sessions 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 2003 legislation passed both the House and Senate with substantial majorities, but was returned to the General Assembly by Governor Warner, who proposed to amend it so that it would not apply to students who:

1. resided with their parents or guardians in Virginia during high school;
2. graduated from a Virginia high school;
3. had resided in Virginia for at least 5 years prior to high school graduation;
4. had filed for and were pursuing permanent residency in the United States; and
5. 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 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.”

Similar legislation to restrict illegal aliens from enrolling in state colleges and universities has been considered by subsequent Sessions. The Human Rights Commission recommends that the City oppose any legislative proposals in the 2007 Session that would restrict access to higher education by undocumented aliens, unless it includes safeguards such as those proposed by Governor Warner for the 2003 legislation. Staff concurs with the Commission’s recommendation.

ATTACHMENTS:

Attachment 1 – City of Alexandria 2007 Legislative Package Proposals

Attachment 2 – Virginia Association of Community Services Boards (VACSB) State Budget Priorities

Attachment 3 – 2007 NVAN (Northern Virginia Aging Network) State Legislative Platform

Attachment 4 – Resolution No. 2142, Alexandria City Council, Resolution on the Proposed State Constitutional Amendments Defining Marriage and Reaffirming the City's Human Rights Ordinance

STAFF:

Bernard Caton, Legislative Director

Attachment 1

City of Alexandria 2007 Proposed Legislative Package Proposals

1. REQUESTS FOR LEGISLATION TO BE PROPOSED

1.A. Preservation of Structures in Historic Districts (Charter Change; Councilman Krupicka)

1.B. Requiring Drivers to Stop for Pedestrians at Marked Crosswalks (Councilman Krupicka; Regional Position)

1.C. Creation of Arts and Cultural Districts (Councilman Krupicka)

1.D. Requirements for Filings by PACs That Become Newly Active Just Before an Election (Councilman Krupicka)

1.E. Funding for the Rehabilitative Services Incentive Fund (Alexandria Commission on Persons with Disabilities)

1.F. Condominium Conversions–Sales to Non-profits (Landlord-Tenant Relations Board, supported by Human Rights Commission)

1.G. Monitoring and Enforcement for Opacity Violations with Respect to Air Emissions (Mayor Euille and Councilman Smedberg)

2. REQUESTS FOR LEGISLATION TO BE SUPPORTED

2.A. Statewide Transportation Funding, Including Metro and VRE, and Related Issues (Northern Virginia Regional Position)

2.B. Homestead Exemptions

2.C. Funding to Clean Up the Chesapeake Bay (Vice Mayor Macdonald)

2.D. Smoking in Restaurants (Vice Mayor Macdonald)

2.E. Water Conservation (Vice Mayor Macdonald)

2. F. Payday Lenders (Councilman Krupicka; Human Rights Commission; Consumer Affairs Commission)

2.G. Child Day Care Funding (Regional Position)

2.H Virginia Association of Community Services Boards (Regional Position)

- 2.I. Red Light Cameras** (Councilman Krupicka and Northern Virginia Regional Position)
- 2.J. Electric Utility Deregulation** (Councilman Krupicka, Consumer Affairs Commission; Northern Virginia Regional Position)
- 2.K. Increasing the Minimum Wage--The Virginia Fair Wage Act** (Economic Opportunity Commission)
- 2.L. The Virginia Housing Trust Fund** (Economic Opportunity Commission)
- 2.M. Human Trafficking** (Human Rights Commission)
- 2.N. Base Realignment and Closure Commission** (Regional Position)
- 2.O. Increased State Funding for Court System Employees** (Northern Virginia Regional Position)
- 2.P. Payments to Foster Care Parents** (Social Services Advisory Board)
- 2.Q. Issues Endorsed by the Alexandria Commission on Aging**
- 2.R. Affirmation of Marriage Act** (Human Rights Commission)
- 2.S. Housing Discrimination Based on Source of Income** (Human Rights Commission)
- 2.T. Mayors Against Illegal Guns** (Mayor Euille)
- 3. REQUESTS FOR LEGISLATION TO BE OPPOSED**
- 3.A. Alexandria Jail Federal Prisoner Per Diems**
- 3.B. Restrictions on Services to Immigrants and Related Issues** (Mayor Euille)
- 3.C. Undocumented Students** (Human Rights Commission)

Attachment 2

Virginia Association of Community Service Boards **2007-08 BUDGET PRIORITIES-TRANSITIONING TO A TRANSFORMED SYSTEM**

The Virginia Association of Community Service Boards (VACSB) Budget Subcommittee, which included consumers, families and advocates, determined the following priorities and the Public Policy Committee, which includes our advocacy partners, agreed as well. An over-arching principle that guided all discussions and decisions is, as Virginia moves to a Transformed System, the stability and sustainability of intensive, flexible services and supports so that consumers can live and participate in their communities on a long term basis.

Much of the Transformation Initiative included funding to assure emergency response. VACSB priorities focus on the long-term and episodic support needs of consumers so as to avoid the high cost of emergencies and the disruption that results in the lives of consumers.

Framework for Determining Budget Priorities in a Transition to a Transformed System:

1. Meeting CSB legal and regulatory responsibilities;
2. Developing new or transformed services or operations;
3. Dedicated funds for necessary and priority pilots critical to a Transformed System.

Pathway Criteria and Guiding Principles:

- Consumer and family collaboration and involvement on system and individual service design;
- Shared accountability defined at personal, professional, and systems levels;
- Maximizing efficient and flexible use of limited resources;
- Measurable outcomes related to the goals of each priority.

Responsiveness to the Recommendations of the OIG Studies:

The priorities will help to address issues and recommendations identified in the following OIG studies:

- Study of Emergency Services
- Study of Mental Health Case Management
- Study of Group Homes for Consumers with Mental Retardation.

Services for Consumers with Mental Illness and Co-occurring Disorders:

In order to build capacity for and capability of a Transformed System, the continuing and long term support needs of consumers must be addressed. These items address the gaps in the continuum of services needed for consumers at varying levels of need and recovery. Services and increased capacity will assist in facility downsizing and avoid inappropriate placement in public safety facilities.

I. Intensive Services for 1000 consumers to promote wellness, recovery, and improved self-management with flexibility for regions to determine unique mix of services needed:

- ▶ Psychiatry
- ▶ Medications
- ▶ Program of Assertive Community Treatment
- ▶ Inpatient bed purchase
- ▶ Crisis Stabilization
- ▶ Intensive residential services
- ▶ Stable residential arrangements
- ▶ Intensive services to address emerging high-risk issues which will include services for consumers with hearing impairments as well as services for certain substance use disorders, and forensics issues.

Methodology for this component (based upon existing successful models in Virginia):

- The community system can place on-line, during the biennium, intensive services for 1000 consumers each year at an average cost of \$40,000 per person per year (exclusive of any calculation of cost offsets as yet). An additional \$4000 per person per year for 500 of those consumers is added to that amount for services for substance use disorder as a co-occurring condition. Funding is added for services for those consumers who have hearing impairments.
- Consumers in this category may vary from those needing intensive supports to live somewhat independently in the community to those on the Extraordinary Barriers Lists for Discharge.
- Total funding for this item: \$42 M

II. Develop and implement 7 consumer-operated pilot projects designed to promote wellness, recovery, and improved self-management. Direct contracting with Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) is recommended. Contracts should include the need to coordinate closely with CSBs/Regional partnerships on needs, services, and outcomes. Funding covers 7 projects, which do not have to be of equal monetary value.

- Total funding for this item \$700,000

III. Co-Occurring Disorders (Mental Retardation/Mental Illness and Mental Retardation/Mental Illness/Substance Abuse):

- ▶ Best practices and researched technologies for consumers with Mental Retardation/Mental Illness and consumers with Mental Retardation/Mental Illness/Substance Abuse. Capability needed for consumers with these needs to become stable and move to community step-down.

Methodology for this component:

- Request DMHMRSAS to develop a sound and supportive capability for stabilization in the state.
- Community system to develop a continuum of step-down but intensive services that would include training, quality of care, and on-going technical assistance for residential providers.
- Total funding for community capability \$7.8 M (exclusive of off-sets).

Services for Consumers with Mental Retardation:

I. 14% increase in all MR Waiver services at a GF cost of \$30.7 M.

II. Differential for Northern Virginia based on the current federally-defined geographic area and current differential at a GF cost of \$1.765 M.

III. 750 additional MR Waiver slots to reduce the Urgent Care Wait List at a GF cost of \$25.65 M

IV. Start-up cost for 750 additional MR Waiver slots at a GF cost of \$3 M

V. Support services for consumers with MR not on the MR Waiver and/or not Waiver-eligible at a GF cost of \$5 M.

VI. Develop 2 additional regional community support centers for a GF cost of \$600,000.

VII. Expand capacity at 3 regional community support centers at a GF cost of \$300,000.

VIII. Budget Language to Direct DMHMRSAS in conjunction with related state agencies and stakeholders to review and make recommendations for the development and funding of a full continuum of care for consumers with mental retardation. Recommendations would be made to the Governor and the General Assembly for the 2008-10 biennium. This study would include all aspects of funding the continuum, including Medicaid and Medicaid Waivers, eliminating the need for the current Budget Language-directed study of the MR Waiver.

Services for Consumers with Substance Use Disorders

- I. To avoid inappropriate treatment modalities and to avoid contributing to the current psychiatric bed situation, fund services for 3000 consumers with substance use disorders, including those with opioid and/or methamphetamine addiction. Services will foster recovery, utilize best practices, average a cost of \$8000 per year and include:

- Detox
- Psychiatry
- Medications
- Crisis stabilization
- Intensive case management
- Intensive outpatient
- Recovery support services.

Total GF funding for this item: \$24 M

Note: The Substance Abuse Council and the Emergency Services Task Force will provide the data around inappropriate treatment and default to hospital beds for these consumers. Additionally, there will be less likelihood of consumers defaulting to local jail placement, at a much higher cost to the Commonwealth.

- II. Drug Court Treatment Services. This is a placeholder and will contain the cost of treatment services needed for each existing Drug Court whose funding is being eliminated.

Cost is being compiled by the Virginia Association of Community Service Boards' Substance Abuse Council in conjunction with the Drug Court Association.

Services for Children, Youth and Families:

- I. Expand Systems of Care Projects:

- ▶ Six (6) Systems of Care projects each year of the biennium designed to serve Juvenile Justice involved youth, Mental Health/Mental Retardation, Mental Health/Substance Abuse, Mental Health/Mental Retardation/Substance Abuse Youth using a variety of evidence-based practices which may include family therapy and intervention, multi-systemic therapy, functional family therapy, and others.
- ▶ Core outcomes to be identified for each project.
- ▶ Evaluation to be conducted upon core outcomes.
- ▶ GF Cost for 6 additional projects: \$ 3 M

- II. Detention Center Projects:
 - Fund permanently the 5 grant-funded projects in the following localities at a GF cost of \$600,000: (specify localities)
 - Fund 8 additional targeted detention center projects for designated localities whose planning and coordination readiness is demonstrated. This is a GF cost of \$960,000. (Localities to be specified.)

- III. Part C/Early Intervention:

Fund consistent 8% growth of referrals for FY 07-08, providing services for over 800 additional infants and toddlers with developmental disabilities at a cost of \$2.4 M.

- IV. Prevention Services

Results of Virginia’s statewide youth risk survey and high rate of underage alcohol consumption as compared with other states, fund evidence-based Prevention models that reduce the amount of underage alcohol consumption. An evaluation component is included in each project, which plans to use baseline and updated information from State Police with regards to one of the risks of underage alcohol consumption, teen vehicular accident and death rates. Fund 40 projects for a total GF cost of \$2.4 M.

Related Service Areas and Pilots:

- I. Deaf Services
 - Fully fund 10 regional Deaf Services Coordinators so that consumers with Mental Illness, Mental Retardation, and Substance Abuse and hearing impairments have access to treatment services. Total GF cost of \$750,000.
 - Additional Interpreter Funds Total GF cost of \$100,000.

- II. Continuum of Care “Jail” Pilots using all components of the Sequential Intercept Model

Fund 10 Projects that utilize the following components in the continuum of care:

 - Pre-arrest diversion
 - Post-arrest diversion
 - Court programs
 - Re-entry programs
 - Continuing community supervision
 - Evaluation component
 - Total GF cost (exclusive of offsets) of \$3.75 M (\$375,000 each).

III. Geriatric Systems of Care Projects

Fund 7 Geriatric Systems of Care Demonstration Projects in targeted regions to create a community-based system of care for a population of seniors who have significant infirmities of aging as well as mental illness, mental retardation and/or substance use disorder or any combination thereof.

Total GF cost at \$750,000/project for the first year is \$5.25 M. Second year and continuing funding would be \$650,000/ year for annual total of \$4.55 M.

IV. Aggressive and Intensive Outreach and Engagement Pilots (AIPs)

- To address the needs of a small but significant population of consumers with Serious Mental Illness (SMI)/co-occurring who either lack the ability to recognize the extent of their illness or who refuse to engage in traditional modes of treatment, fund 2 pilots: one in Fairfax County, the other in Richmond.
- Using pilots modeled after the successful services developed, for example, as a result of “Kendra’s Law”, develop staff-intensive services that include aggressive outreach, engagement and intervention into intensive services.
- A VACSB workgroup is developing the services and costs components of these pilots.

V. Pilot Project for Use of Auxiliary Grants in Independent Living Arrangements

Target 200 consumers with SMI/Co-occurring Disorder who are eligible for or who have auxiliary grants are who are able to and choose to move to a more independent situation. The AG would be portable for those who are moving from an ALF to independent/supported housing or for those individuals being discharged to the community from facilities and would otherwise qualify for an AG. No new funds needed for this pilot.

Administrative Projects:

With General Funds, fund:

- Major Information Technology requirements for CSBs
- Assist with Electronic Health Record development and readiness
- Data collection;
- Outcome measures;
- Utilization review;
- Utilization management
- Quality Improvement;
- Other required function.
- Total Funding of \$10 M.

Total GF for Department of Mental Health, Mental Retardation and Substance Abuse Services Grants to Localities (exclusive of AIPs): \$112.6M

Total General Fund for Department of Medical Assistance Services: \$58.1 M

Attachment 3

Northern Virginia Aging Network (NVAN) 2007 State Legislative Platform

► Support In-Home & Community-Based Services

- To hold back the explosion of residents requiring Medicaid-funded nursing home care, increase the capacity of cost effective in-home and community-based services through additional funding.
- Allocate \$10 million for: home delivered meals for frail seniors; increased reimbursement rates for personal care assistants; adult foster care; volunteer recruitment and placement; and community assessment and coordination of services.
- Increase local government flexibility to target services responsive to local need, enabling older Virginians to live with greatest independence in their own homes and communities.

► Fund Intensive Older Adult Mental Health Services

- Support pilot at \$2.4 million (based on the 2005 Northern Virginia Regional Strategic Plan) to develop geriatric mental health teams and to:
 - Integrate new and existing community resources to serve older adults (65+) with serious mental illness where they live;
 - Reduce number of psychiatric hospital bed days needed;
 - Provide essential hospital psychiatric services in N. Va.; and
 - Meet the intent of 2006 General Assembly budget language.

► Support Livable Home Tax Credit

- Amend *Virginia Code* § 58.1-339.7 to rename the disabled tax credit the "Livable Home Tax Credit" and to enable taxpayers who build or purchase a newly constructed residence with accessibility features to apply for the tax credit.
- Current credit provides up to \$500 to homeowners who make accessibility changes in existing homes, with annual cap of \$1 million.
- Expansion of tax credit to newly constructed homes would promote visitability and universal design features in Virginia housing, and would be fiscally neutral.

► Address Continuing Challenges

- Increase funding and planning for transportation for seniors.
- Increase nursing home personal needs allowance from \$30 to \$60 per month.
- Appropriate funds for Long-Term Care Ombudsman staffing (*Va. Code* §2.2-703(A)(10)).
- Set requirements for minimum nursing home staffing level.
- Increase the monthly Assisted Living Auxiliary Grant from \$982 (\$1,129 in N. Va.) to at least \$1,500 (\$1,725) & make it state-funded, eliminating local 20% share.
- Expand Medicaid level of care and financial eligibility.

RESOLUTION NO. 2142

WHEREAS, the City of Alexandria Human Rights Ordinance was passed by City Council thirty years ago on March 25, 1975; and

WHEREAS, the City of Alexandria passed an ordinance in 1988 amending the Human Rights Code to protect people from discrimination on the basis of sexual orientation; and

WHEREAS, the City of Alexandria has consistently adopted policies that reflect its commitment to diversity, include all members of the community in city government and protect the civil liberties of all citizens; and

WHEREAS, constitutional amendments at the federal and state level defining marriage as only between a man and a woman intentionally discriminate against lesbians and gay men by denying them access to the protections, benefits and responsibilities extended through civil marriage, such as pensions, social security benefits, tax provisions, health insurance, hospital visitation, inheritance and other family law provisions; and

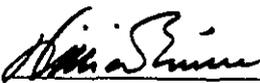
WHEREAS, such proposed constitutional amendments appeal to Americans' prejudices and fears rather than to their higher values of equality and justice; and

WHEREAS, the long and honorable history of the United States Constitution, and its role in expanding and protecting human rights through the first ten amendments known collectively as the Bill of Rights and through later amendments, would be tarnished by any amendment that restricts the civil rights of any group of Americans;

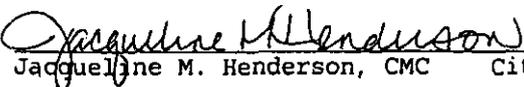
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alexandria:

1. The Alexandria City Council declares its opposition to any proposed federal constitutional amendment defining marriage as only between a man and a woman; and
2. The Alexandria City Council opposes any attempts by Virginia elected officials to pass similar discriminatory legislation; and
3. The Alexandria City Council reaffirms the City's Human Rights Ordinance; and
4. The Alexandria City Council urges members of Virginia's congressional delegation to pursue policies that affirm individual and family rights for all citizens, support local efforts to create inclusive and diverse communities, and create the federal legal atmosphere necessary for equality in civil rights.

ADOPTED: March 8, 2005


 WILLIAM D. EUILLE MAYOR

ATTEST:


 Jacqueline M. Henderson, CMC City Clerk

12
11-18-06



"Chet and Sabra Avery"
<csavery@verizon.net>
11/17/2006 02:21 PM

To "John Ates" <jates@comcast.net>, "David Horne"
<dhatalaw@aol.com>, <Jean.Niebauer@alexandriava.gov>, "Jenny
R. Wade" <jennyrwade@yahoo.com>, "Jim McClellan"
cc "Rob Krupicka" <krobk@aol.com>, "Paul Smedberg"
<smedbergpc@aol.com>, <Michele.Evans@alexandriava.gov>,
<mark.jinks@alexandriava.gov>, "Ludwig Gaines"
bcc

Subject Fw: Voting Machines October 28, 2003 Docket Memo item #16

Hello Commissioners,
In reviewing my files in preparation for tomorrow's hearing on voting machines and paper audit trails, I found the following docket memo that was Item 16 on the October 28, 2003 meeting of City Council.
In reviewing this memo, it answers many of the questions as to why the Eslate voting machines were recommended over other electronic voting machines that were reviewed by electoral Board staff who identified flaws that became known this year.

Chet

Chet and Sabra Avery
16 East Linden Street
Alexandria, Virginia 22301
703 549-4617

----- Original Message -----

From: <Jackie.Henderson@ci.alexandria.va.us>
To: <savery@erols.com>
Sent: Monday, October 27, 2003 2:41 PM
Subject: item #16

>
>
>
>
> Chet--
>
> Unfortunately, I only have wordperfect on my machine. I've copied the
> item
> and put it below. Hope this helps.
>
> Jackie
>
>
> DATE: OCTOBER 23, 2003
>
> TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
>
> FROM: PHILIP SUNDERLAND, CITY MANAGER
>
> SUBJECT: CONSIDERATION OF THE REALLOCATION OF CAPITAL FUNDS FOR THE
> PURCHASE OF NEW VOTING EQUIPMENT FOR THE CITY
>

> ISSUE: City Council consideration of a request for authorization to
> purchase new voting equipment.
>
> RECOMMENDATIONS: That City Council:
>
> (1) Reallocate \$641,150 from the Market Square capital renovation
> account
> to the Information Technology Plan capital account to purchase new voting
> equipment; and
>
> (2) Authorize the Electoral Board to seek partial reimbursement from the
> State Electoral Board (estimated at \$75,000).
>
> BACKGROUND: Under the Help America Vote Act of 2002 (Public Law
> 107-252),
> all localities throughout the country are required to have at least one
> accessible voting machine in each polling place used in elections for
> federal office after January, 2006. Specifically, this new federal law
> states that localities must have a voting system that is "accessible for
> individuals with disabilities, including non-visual accessibility for the
> blind and visually impaired, in a manner that provides the same
> opportunity
> for access and participation (including privacy and independence) as for
> other voters." The law further states that each locality must provide at
> least one direct recording electronic (DRE) voting system or other voting
> system equipped for individuals with disabilities at each polling place.
>
> Purchasing new voting equipment for the City was considered, but not
> funded, when the City prepared its FY 2004 Capital Improvement Program
> funding. However, since then the need, details and costs to support the
> rationale to purchase new voting equipment have become clearer, as well as
> a funding opportunity has arisen which will make the purchase of new
> voting
> equipment financially feasible in FY 2004.
>
> Currently, citizens in Alexandria vote on an optical scan system that is
> not accessible to all voters. It is not possible for individuals with
> disabilities (including the blind and visually impaired) to vote on this
> system in a manner that provides the same opportunity for access,
> participation and privacy that is provided for other voters. Therefore,
> the City is required to purchase at least one accessible voting machine
> for
> each polling place.
>
> The Alexandria Electoral Board, which is comprised of three members who
> are
> appointed by the Alexandria Circuit Court for staggered three-year terms,
> is responsible for overseeing the voting process in Alexandria. The
> Electoral Board began researching accessible voting systems in early 2001
> in anticipation of the need to replace the City's existing voting
> equipment, purchased in 1995. The Board took this action because the
> voting equipment was beginning to experience problems such as frequent
> ballot jams, power failures, and mechanical malfunctions. None of these
> problems compromised the accuracy of any election because the Board
> thoroughly tests all voting machines prior to each election, repairs

> malfunctioning machines, and utilizes backup voting machines on election
> day. However, these problems have contributed to delays in voting and
> election reports. In short, while currently operable, the electronic
> components of the City's eight-year old voting system is near the end of
> its useful life. The Electoral Board therefore recommends that it is time
> to replace the City's voting machines.

>
> Localities in Virginia are required to use voting systems which are
> certified by the State Board of Elections, and new voting systems must
> undergo rigorous testing by independent experts before they are certified
> by the State. In addition, after City Council authorizes the purchase of
> new equipment, the United States Department of Justice will also need to
> approve the proposed purchase of new voting machines. Based upon prior
> Justice Department reviews and decisions, this request should be approved.
> Once the request to purchase new voting machines has been approved by the
> Justice Department, the Electoral Board will send notifications to all of
> the registered voters in the City, and will also advertise the change in
> the local newspaper. It is planned to have the new system in place by the
> February 10, 2004 Presidential Primary.

>
> DISCUSSION: The Electoral Board reviewed all of the voting systems which
> are currently certified by the State Board of Elections, with input from
> the Alexandria Commission on Persons with Disabilities, conducted a test
> of
> the Hart eSlate system in November, 2002, and tested the Advanced Voting
> Solutions WINVote system in May 2003. After careful analysis of both
> systems, test results, input from staff, soliciting input from
> approximately 40 groups and individuals such as the Commission on Persons
> with Disabilities, N.A.A.C.P., League of Women Voters, Hispanic Advisory
> Committee, Office on Aging and Adult Services, and receiving input from
> citizens, elected officials, and political parties, the Board unanimously
> recommended that the City enter negotiations to purchase the Hart eSlate
> system. The eSlate is a fully electronic voting system that is
> manufactured by Hart Intercivic Corporation, a business that has marketed
> products to state and local government since 1912. The system is
> certified
> by the State Board of Elections. The eSlate is currently in use in
> Charlottesville, Virginia and Houston, Texas, and will be implemented in
> Orange County, California in 2004. The following is the rationale for
> this
> decision.

>
> a) Ease of Voter Use and Accessibility: On a pilot basis, the eSlate was
> tested in one regular precinct and for the absentee voting precinct and
> surveyed along with the current optical scan system in the federal
> election
> in November, 2002. Voters expressed a high degree of satisfaction with
> both
> the existing optical scan system and the eSlate system.

>
> After significant study and trials on all electronic systems certified for
> use in Virginia, the Alexandria Commission on Persons with Disabilities
> weighed in heavily in favor of eSlate. In a memorandum to the City
> Council
> and City Manager (attached), the Commission stated, "We believe that the

- > Hart eSlate provides the best opportunity for providing the most
- > accessible
- > voting technology to Alexandria residents with disabilities.” The system
- > features font enlargement and audio capacity for sight impaired voters and
- > a sip and puff attachment allowing even a voter with total paralysis to
- > vote unassisted, ensuring his/her constitutional right to cast a secret
- > ballot.
- >
- > b) Security: The eSlate is hardwired and does not use a smart card as is
- > the case with most touch screen systems. It is less vulnerable to
- > external
- > tampering than wireless and/or software driven systems. This is not to
- > suggest that wireless, software driven systems like those purchased by
- > Arlington and Fairfax Counties and other jurisdictions are not secure. It
- > is that the Electoral Board believes that the eSlate system is more
- > secure.
- > The key to properly securing an electronic voting system is the
- > administration of comprehensive pre-election logic and accuracy test open
- > to bipartisan observation. Alexandria has and will continue to conduct
- > these tests prior to each election.
- >
- > c) Maintenance and Durability: The eSlate is not a touch screen system.
- > It does not have to be recalibrated after each election as do touch screen
- > systems. This increases system longevity and makes the voter/system
- > interactivity more precise. The voter turns a dial and presses an enter
- > key
- > to highlight and select choices. This can be thought of as a mouse (though
- > stationary) and “Enter” key on a PC. While it may seem somewhat more
- > low-tech than touch screen, many computer application environments
- > (medical
- > diagnostics in particular) employ this technology due to its lower
- > maintenance requirements and durability.
- >
- > d) Rationale for Replacing all of the City’s Voting Equipment: In lieu
- > of
- > purchasing an entire replacement voting system, the City could purchase
- > one
- > direct recording electronic (DRE) voting machine for each of the City’s 25
- > polling places to satisfy the federal requirements associated with the
- > Help
- > America Vote Act of 2002. The Electoral Board and City staff considered
- > this option and recommend replacement of all of the City’s voting
- > equipment
- > with DRE voting machines because the use of two systems would have serious
- > negative consequences in several phases of the electoral process.
- >
- > i) Election Preparation: The operation of two voting systems
- > would increase the risk of system errors and reduce
- > efficiency in system preparation. Two separate protocols
- > would be followed in programming and testing two systems.
- > Proper programming and testing ensures, among other things,
- > that when a voter selects “Candidate A” that “Candidate A”
- > is awarded the vote. Programming and testing procedures
- > are meticulous, intensive, and time consuming. The use of
- > two systems would greatly increase the risk of errors and

> double the time needed to program and test.

> In addition, it would be far more challenging, time
> consuming and costly to train staff and precinct election
> officials with two systems. Voting systems are complex
> computer systems that require a great deal of training,
> experience and support to operate. Staff and precinct
> election officials would be required to learn operating and
> trouble shooting for two systems rather than one system.

> ii) Voting and Election Day Operations: Election day operations
> are also complicated by running two systems. It would be
> more difficult for staff and election officials to respond
> to breakdowns with two systems. In addition, under Virginia
> election law, each voter is to be offered an opportunity for
> a demonstration prior to voting. In the case of a new
> system this should be encouraged. The use of two systems
> would double this responsibility and would delay voters. It
> is also likely that more election officials would have to be
> employed. Much is expected of precinct election officials.
> They put in a 15 to 16 hour day (more if two systems are
> used), spend 2 to 3 hours in training, and are paid \$100 to
> \$150 per election. Efforts should be made to simplify their
> election day task rather than to add to the complexities
> associated with operating two different systems.

> iii) Producing and Reporting Results: Integration of election
> results from different voting systems would increase the
> risk of reporting errors and be less efficient. When the
> polls close precinct election officials would have to
> produce reports from two separate systems, report twice
> electronically or telephonically to election headquarters,
> and complete two reports documenting results. Staff at
> election headquarters would have to integrate results
> manually and enter them into reporting programs. The number
> of points where errors might occur would increase
> dramatically. This would increase the risk of errors and
> delay the reporting of returns by an hour or more. Errors
> and delays could shake the trust that Alexandria citizens
> have in their electoral system.

> iv) Cost of Two Systems: Because of high fixed costs and
> software costs, staff estimates that it would cost
> approximately \$260,000 to provide one accessible machine per
> precinct, including the cost of software and an absentee
> voting system. In addition, it would be necessary to spend
> approximately \$200,000 to replace the City's optical scan
> voting system. Therefore, the total cost for this
> alternative would be approximately \$460,000, and this would
> only provide one accessible machine per polling place.
> While this is less expensive up front than replacing the
> entire voting system, it would result in a very inefficient
> system to administer, as well as it would be very confusing
> for voters, and it would be in place for five to ten years.

- > e) Timing of the Purchase of a New Voting System: The City is required
- > to
- > purchase accessible voting machines for use in federal elections that are
- > held after January 2006. Purchase prior to 2006, when most jurisdictions
- > around the country will be implementing, is in the City's interest in
- > order
- > to avoid competing with other jurisdictions for vendor system service.
- > The
- > Electoral Board recommends implementing the new system during the February
- > 10, 2004, Presidential Primary because this will allow time to prepare,
- > train and obtain real-time hands on experience with the new voting
- > equipment with staff and election officials prior to use in the high
- > turnout Presidential Election.
- >
- > FISCAL IMPACT: The cost of providing 225 accessible voting machines,
- > software, and a new absentee voting system is \$716,150. The cost will be
- > somewhat offset by approximately \$75,000 of federal funding (approximately
- > \$3,000 per precinct) that will pass through the State as a reimbursement
- > to
- > the City, resulting in a net City capital cost of approximately \$641,150.
- > When the City surpluses its old voting equipment, it is likely that some
- > nominal dollar amount may be achieved if some other locality wishes to buy
- > the City's system (such as for parts, spares, new precincts, etc.). In
- > addition, the maintenance and support costs will be \$32,750 per year.
- >
- > The proposed source of funding for this purchase are existing allocated
- > capital funds which have been previously approved for the planned future
- > Phase II renovation of Market Square. With the discussion of the five
- > main
- > siting options for the Visitors Center, including the possibility of
- > Market
- > Square as a Visitors Center site, the hiring of an engineering firm to
- > develop the specifications for the Market Square renovation project has
- > been deferred until after the City Council decision on the Visitors Center
- > currently scheduled for late January 2004. This means that it is unlikely
- > that a construction award for Market Square renovation will occur in this
- > fiscal year, thereby creating the opportunity for the reallocation of
- > funds
- > to finance the purchase of the proposed new voting equipment. While this
- > resolves the funding situation in FY 2004, it will mean that the \$641,150
- > will need to be added to the FY 2005 CIP to make the Market Square account
- > whole.
- >
- > ATTACHMENT: Letter from the Alexandria Commission on Persons with
- > Disabilities to City Council and the City Manager dated August 21, 2003.
- >
- > STAFF:
- > Michele Evans, Assistant City Manager
- > Mark Jinks, Assistant City Manager
- > Ignacio Pessoa, City Attorney
- > Tom Parkins, General Registrar
- > Eric Spicer, Elections Administrator
- >
- >
- > Jackie M. Henderson

> City Clerk and Clerk of Council



OFFICE OF VOTER REGISTRATION AND ELECTIONS
ALEXANDRIA, VIRGINIA



REGISTRAR OF VOTERS
TOM PARKINS

ELECTIONS ADMINISTRATOR
ERIC L. SPICER

12
11-18-06

ELECTORAL BOARD
MARY TRIPP LAMOIS
DONALD E. LEDWIG
ANNA LEIDER

To: The Honorable Mayor William E. Euille and Members of City Council

From: Tom Parkins, General Registrar *SP*
Eric Spicer, Elections Administrator *ES*

Date: November 15, 2006

Subject: Election Legislation Requiring Voter Verified Paper Audit Trail (VVPAT)

As both the Alexandria Electoral Board and City Council are tracking proposed legislation to ensure the accuracy and integrity of electronic voting equipment through requiring electronic voting equipment to include VVPAT and/or other technical and procedural options, the Board asked me to briefly provide information that may be useful to the City Council and Staff.

First, the Electoral Board is confident that the City's eSlate voting system is reliable, accurate, and delivers election results with integrity. Around 200 thousand ballots have been cast in 9 elections on the eSlate voting system. Every precinct in each election has opened for voting promptly at 6:00 AM. At no time has there been a stoppage or significant delay in voting in any Alexandria precinct. Alexandria voters cast significantly fewer void votes than on the previously-used optical scan system. There is virtually no evidence that eSlate has produced anything but accurate results.

While the eSlate voting system in most respects has performed at or beyond the Board's expectations, the Board neither opposes nor advocates adding VVPAT to the system. The Board fully understands that elections only legitimize the selection of those in power when the electorate has general trust in the fair and accurate execution of elections. If the Virginia General Assembly believes VVPAT is necessary to ensure that trust, it will pass.

If VVPAT does pass, eSlate will be retrofitted to comply with the law. Electoral Board staff and precinct election officials are capable of implementation and operation of eSlate with VVPAT. Cost to retrofit 230 eSlate units with VVPAT is conservatively estimated at \$250 thousand. In addition, the Electoral Board will likely recommend purchase of additional eSlate units. Additional units will help offset increased time voters spend in booth reviewing the paper audit trails. In addition, we can anticipate at least a marginal increase in the number of eSlate breakdowns that will occur due to adding printers to each unit.

The Alexandria Electoral Board and staff look forward to working with you and your staff as we track this legislation. We will be ready to advise or consult with Legislative Director Bernard Caton at any point during the 2007 session.

C: Alexandria Electoral Board
James Hartman, City Manager
Bernard Caton, Legislative Director

League of Women Voters

12
11-18-06

thanks council for the opportunity

to support the following items
of the legislative package.

1-A, 1F, 1G, 2A, 2C, 2D,
2I, 2J, 2K, 2L, 2M, 2O, 2P,
2S,

Lois Keba Hunt