

EXHIBIT NO.

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City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 22, 2008

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: RECEIPT OF PROPOSED CITY LEGISLATIVE PACKAGE FOR THE 2009 GENERAL ASSEMBLY SESSION

ISSUE: Receipt of proposed City Legislative Package for the 2009 General Assembly Session.

RECOMMENDATION: That City Council:

- (1) receive the proposals for the City's 2009 Legislative Package;
- (2) schedule the legislative package proposals for public hearing on Saturday, November 15; and
- (3) schedule adoption of the Legislative Package for Tuesday, November 25, 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 2009 Legislative Package. Twenty-eight such proposals are described below for your consideration as 2009 legislative package proposals. Section 1 contains two legislative proposals that are of greatest concern to the City; Section 2 includes proposals that staff recommends for introduction by our delegation; Section 3 contains carryover legislation which the City would like its delegation to support; Section 4 consists of legislative proposals which staff recommends that the City support; and Section 5 includes proposals which staff recommends that the City oppose. All the proposals are also summarized in the list entitled "City of Alexandria 2009 Legislative Package Proposals" (Attachment 1).

The 2009 General Assembly Session will be a "short" 46-day Session, beginning January 14, and ending February 28. On December 17, 2008, Governor Tim Kaine will submit his proposed amendments to the FY 2009-2010 biennial budget. The major issue expected to occupy the Session is the state budget, which will require amendments to reduce spending because of revenue shortfalls. Governor Kaine has already made additional reductions to FY 2009 appropriations, which are discussed briefly at the end of the memorandum.

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 2009 General Assembly Session.

1. Issues of Greatest Concern to the City

1.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. If the City is forced to share its federal jail per diem payments with the State, the State will pay a smaller portion of the City's jail costs than it does for any other jail—local or regional--in the Commonwealth.

In his budget proposal to last year's General Assembly, Governor Kaine proposed removing the City's exemption; this would have resulted in a transfer of \$1 million annually from the City to the State. The General Assembly rejected this proposal for the first year of the current biennium, but was unable to do so for the second year because of budget constraints. The Mayor has asked the Governor to submit a budget amendment to continue the City's exemption from the State's cost recovery requirements for federal jail per diem payments to localities. We are asking the City's legislative delegation to support such an amendment if proposed, or initiate an amendment if it is not proposed.

1.B. Reductions in State aid to localities. Of great concern to local governments in the 2008 Session was the General Assembly's decision to use local governments to make up substantial State revenue shortfalls. Not only did the General Assembly agree to many cuts in local aid that were included in the Governor's proposed budget; it increased reductions in local aid by requiring localities to give back an additional \$50 million in state funding in each year of the biennium (Alexandria's share of the \$50 million was approximately \$1.1 million). These reductions were not aimed at any specific programs, nor did they result in reduced local responsibilities. In today's economy, local governments face revenue shortfalls not only from State reductions to state-local programs (again, almost always with no means of reducing local services), but also from their local revenue base.

Recent State revenue estimates indicate additional budget shortfalls of \$2-3 billion for the biennium. While the City realizes that the State budget must be reduced further, we are asking that the Governor and General Assembly, in the 2009 Session, minimize any further reductions in payments to localities for programs for which the State and the local governments share responsibility. If some cuts are necessary in spite of this request, the Governor and General Assembly should identify and make meaningful and realistic reductions in corresponding local responsibilities.

2. Requests for Legislation to Be Proposed

2.A. Prohibit cell phone use while driving (Councilman Krupicka). Serious concerns have been raised by highway safety proponents about the use of cell phones by drivers. Studies have shown that the reaction time of a cell phone user slows dramatically, increasing the risk of accidents. The 2007 General Assembly Session enacted legislation prohibiting the use of cell phones by drivers who are provisional drivers (minors), but this is only a secondary offense (a driver cannot be charged unless he is stopped for another offense). The use of cell phones while driving is already prohibited in D.C. Councilman Krupicka has recommended that the City ask its legislative delegation to introduce legislation in 2009 that would prohibit drivers from using cell phones unless they are hands-free.

2.B. Election Laws and Poll Watchers (Councilman Wilson). Section 24.2-604 (C) of the Virginia Code provides for a maximum of three poll watchers per party per polling place, who can observe the election process. At times, a precinct's poll book may be split into more than three parts, making it difficult for the poll watchers to carefully observe the voting process. Councilman Wilson has recommended that the City ask its delegation to introduce legislation to amend this law, so that each political party can provide as many poll watchers as there are sections of the poll book (i.e., if the poll book is split into 5 sections, each party could have 5 poll watchers).

2.C. Plastic Bags--authority for localities to regulate (Councilman Lovain). Legislation was introduced in 2008 (HB 1534 and SB 711) to allow any locality to pass an ordinance that would prohibit all retail merchants within its jurisdiction from using disposable plastic carryout bags. This legislation was carried over to the 2009 Session, and DEQ is studying the issue. Councilman Lovain recommends that the City ask its delegation to pursue or support such legislation or related legislation (e.g., a statewide ban on the use of these bags) in the 2009 Session.

3. Carryover Legislation

3.A. ABC permits for Certain Museum Events. Gadsby's Tavern is the site of a number of fundraisers that benefit the Tavern or other City-owned historic properties throughout the year. To minimize costs, City staff purchase alcoholic beverages (beer and wine) for sale at the events. Current ABC laws require staff to get a separate license for each event. In addition to the inconvenience of getting multiple licenses throughout the year, these licenses require the removal of any beverages immediately after the event (they cannot be stored there until the next fundraiser). An annual license can already be issued to a nonprofit corporation operating a performing arts facility, or to a nonprofit corporation or association "chartered by Congress for the preservation of sites, buildings and objects significant in American history and culture" (i.e., Wolf Trap). Legislation that was introduced on the City's behalf by Delegate Ebbin would have authorized the Alcoholic Beverage Control Board to issue annual mixed beverage special events licenses to a government agency or non-profit whose mission is to preserve historic buildings or sites. The legislation was carried over, and the City asks for continued support for this proposal.

3.B. FOIA Exemption for Museum Gifts and Loans. Many individuals who donate or loan resources to publicly funded museums or historic sites wish to remain anonymous for security purposes (e.g., they would not want to make it easy for someone to steal a valuable painting that has been loaned to a museum and then returned to the owner's home by revealing the painting's owner). Unfortunately, under the Virginia Freedom of Information Act, there is no way to protect a donor's identity. The City supports the inclusion of an exemption for these records to protect the identity of an individual who donates or loans resources to a publicly-funded museum or historic site. The Virginia Association of Museums has indicated that it will support such legislation.

The City asks that its delegation continue to support carryover legislation (that had been introduced by Senator Ticer and Delegate Ebbin) to exempt from the disclosure requirements of the Freedom of Information Act records revealing information about individuals who donate or loan resources to publicly funded museums or historic sites.

3.C. Land Preservation Tax Credit. SB 641, introduced by Senator Ticer in 2008, seeks to increase existing state tax credits for certain land preservation activities. Current law allows taxpayers to take a credit against their tax liability for forty percent of the fair market value of any land or interest in land that is donated for use as a park or open space, or for historic or conservation purposes. The maximum credits allowed statewide are limited to \$100 million annually (this is in 2007 dollars; the maximum is increased annually by a percentage equal to the increase in the consumer price index).

SB 641 proposes to modify the amount of tax credit available for these donations by increasing it to sixty percent for donations of park land, and leaving it at 40 percent for all other donation or preservation purposes. The total credits available statewide would not be changed by this proposal. SB 641 was carried over to the 2009 Session by the Senate Finance Committee. The City Department of Recreation, Parks and Cultural Activities has recommended that the City support this legislation.

4. Legislation to Support

4.A. Transportation Funding. The City and the region continue to experience dire needs for new transportation funding. While we have little hope that the 2009 Session will give serious consideration to this problem, we ask our delegation to support any such efforts. The region needs reenactment of funding that will provide at least \$300 million in new regional funds annually, dedicated funding for Metro (the amount of which is included in the \$300 million need), full funding of the State obligation for transit funds, and sufficient funding to meet statewide maintenance and construction needs.

4.B. High rise sprinklers (support case-by-case review and requirements). Legislation in 2008 would have required all high rise residential buildings (apartments and condominiums) that do not have sprinklers to be retrofitted with fire sprinklers (for the last 20-25 years, the building code has required the inclusion of sprinklers in new high rises). The City took the position that

expensive sprinkler retrofits may not be needed in every case, and the legislation needed additional work. The General Assembly concurred with this, and sent the legislation back to the Virginia Housing Commission (which had originally recommended it) for further study prior to the 2009 Session.

Since the completion of the 2008 Session, the City's Building and Fire Code Director has been working with his counterparts and other interested parties to develop legislation that could be substituted for the 2008 bill. It appears that there may be 2009 legislation that would seek to make high rise residential buildings safer than they are now, yet avoid expensive sprinkler retrofits in cases where less expensive alternatives are appropriate.

This would be done by evaluating each non-sprinkled high rise, looking at issues such as building age and application of building codes, construction material type, existing fire protection systems, and other construction features in place that secure safe egress and the prevention of fire spread from units and common areas. Those buildings that demonstrate a relatively high degree of fire safety may need no retrofitting, and those that score low in this regard may require sprinklers. Those in between these two extremes may need limited sprinklers (e.g., in the common areas), or upgrades short of sprinklers.

The Housing Commission is expected to discuss this proposal in the coming weeks. If it accepts it, legislation could be introduced in 2009 that would require the Board of Housing and Community Development and local building officials to implement it (although the Housing Commission may decide to delay any such proposal until the 2010 Session). The City recommends that the delegation support the legislative approach described above.

4.C. Prohibiting Smoking in Restaurants (Mayor Euille). Legislation to prohibit smoking in restaurants or other buildings frequented by the public was proposed in the four 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 and 2007, Senator Brandon Bell (Roanoke County), introduced similar legislation, which was approved by the Senate, but died in the House. Legislation was reintroduced in the 2008 Session that would ban smoking in restaurants statewide, or enable localities to enact a local ban. The City understands that one or more Arlington legislators plan to introduce such legislation in 2009, and asks the delegation to support it.

4.D. Emergency extensions of polling hours (Councilman Wilson). On February 12, 2008, the day of the Virginia presidential primary, the City and the region experienced severe weather in the late afternoon and evening. Many voters who had planned to cast their ballots on their way from work were unable to do so, since they were significantly delayed by traffic problems. Although the State considered extending polling hours, the legal basis for such a decision was unclear. Consequently, the polls closed at the regular time and many residents in the region were unable to vote.

As a result, Governor Kaine sent legislation to the General Assembly (SB 796) that sought to authorize the courts to extend polling hours in emergency situations and situations that interfere

with the ability of voters to travel to the polls. Although there was concern about the problems that had arisen on February 12, concerns about how the legislation would be implemented caused the General Assembly to carry the bill over for consideration in 2009.

Councilman Wilson has recommended that the City support the concept of allowing extended polling hours in emergency situations, and ask the City delegation to support efforts to address concerns that have been expressed as well as the ultimate passage of the legislation.

4.E. Prohibiting 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 Human Rights Commission has asked that the City support any legislation introduced in the 2009 Session that would make it illegal to discriminate in housing based on source of income. The City has done so in past Sessions.

4.F. Pre-K Childhood Education (Early Childhood Commission). The 2008 General Assembly increased funding for Pre-K education (the VIP program), and the state-recognized cost per pupil was raised from \$5,700 to \$6,000 annually. What was more important to the City and City pre-K participants was the capping of the maximum match that must be paid by participating localities at .50 (Alexandria will pay a dollar for every dollar the State provides). This match rate becomes effective July 1, 2009; until then, the City's current match rate is .80—the City pays four dollars for every dollar the State pays.

The Early Childhood Commission asks that the City continue to support these changes to the Pre-K program, and encourage its legislative delegation to resist any efforts to reduce funding or increase the City match.

Furthermore, while the Commission realizes that there will be few if any new funding proposals for pre-K education in the 2009 Session, it asks that the City support additional funding, if proposed by the Governor, to develop quality pre-K programs, including a quality rating system for child care.

4.G. Marking Water and Sewer Lines on Private Property. On June 27, 2008, the State Corporation Commission issued a ruling that requires all local government entities that operate water and sewer lines to mark the lines so that other utilities will know their location prior to

digging. The authority the SCC claimed for this is the Underground Utility Damage Protection Act.

Gas line installers now use boring equipment to install some of their lines; the boring technique can result in the gas line going through an existing sewer line. While it is an important public safety issue to ensure that gas does not migrate to sewer or water lines when gas lines are bored (or sewer lines are later repaired), this should not be the local government's responsibility.

If fully implemented statewide, this will create a substantial cost to local governments if they are required to mark all water and sewer laterals, particularly those on private property. In addition, local governments do not normally have easy access to a lateral located on a customer's lot, since it is usually owned by the customer, not the locality. Typically, the publicly-owned line stops at the property line or water meter. Local records often do not show its location after it enters private property.

The Virginia Municipal League, the Virginia Association of Counties, and other interested parties are considering various approaches to clarify that local government entities are not obligated to mark utility lines on private property under the Underground Utility Damage Protection Act (if no other solution exists, it should be the responsibility of the utility doing any boring). The recommended approach may be legislation in the 2009 Session. If so, staff recommends that the City ask its legislative delegation to strongly support this legislation.

4.H. CSBs: Protect Current Funding (Community Services Board). The 2008 General Assembly, following a great deal of study by the Governor, the Supreme Court, and other groups, significantly increased funding for severely-underfunded CSB mental health and mental retardation programs. The Alexandria CSB recommends that the City ask its General Assembly delegation to remember the reasons why this new funding was appropriated, and seek as much as possible to protect CSB funding from any budget reductions.

4.I. CSBs: Local Inpatient Purchase of Beds (LIPOS) (Community Services Board). Virginia provides LIPOS (Local Inpatient Purchase of Services) funding to purchase beds for mental health consumers in private hospitals when the State hospitals do not have the capacity to admit them. Since the State hospital serving our region, Northern Virginia Mental Health Institute (NVMHI), has consistently been at capacity, LIPOS funding has provided inpatient services to at-risk seriously mentally ill consumers with no insurance or other resources. This funding has been a core component of the emergency/crisis services and has been essential in providing treatment and a safe environment to consumers at risk of self-harm or harm to others. The Northern Virginia region diverted 762 consumers for 4,568 bed days into LIPOS settings for FY08, which is 180 consumers more than FY07. In addition, we diverted 616 consumers into Crisis Stabilization Units (CSU) for FY08. We have one local and two regional CSU sites with a capacity of 26 beds, and we have had 93% occupancy in those beds. These crisis beds provide a treatment setting for some of our consumers who otherwise would need to be in a LIPOS bed. In FY09, if our region uses the same number of bed days as FY08, we project spending \$4,051,816 in FY09. This usage would result in a projected deficit of \$1,497,120. Our use of LIPOS funds thus far has been substantially higher for FY09. For the past two months, 149 consumers have used 1,035 LIPOS bed days. If this rate continues for the remainder of the fiscal year, 894

consumers will need 6,210 bed days for a total of \$5,508,270. This usage would result in a projected deficit of \$2,953,574.

Northern Virginia localities project that they will have spent our allotted LIPOS funding before the end of the calendar year. If this happens, consumers who are at risk of harm to self or others, as well as consumers who have been committed or court mandated into inpatient treatment, will not have an available placement after the existing LIPOS funding has been exhausted. The Alexandria CSB recommends that the City support additional state funding for the Local Inpatient Purchase of Beds.

4.J. NVAN platform (Alexandria Commission on Aging). The City of Alexandria generally supports the Northern Virginia Aging Network (NVAN) Platform, thus allowing members of the City's Commission on Aging to approach members of the Alexandria delegation to seek their support of its components. This year, NVAN will be asking the General Assembly to increase tax credits that are already given to make homes more accessible; improve training for direct care workers in long term care; and make older adult mental health a CSB priority. NVAN is also hoping to increase state funding for Medicaid reimbursement rates for the long-term care workforce; long-term care ombudsman staffing; specialized geriatric mental health care, and community-based services. The Commission on Aging asks that the City support the NVAN platform.

4.K. Comprehensive Services Act (Virginia Municipal League and Northern Virginia Regional Position). Local governments (through the Virginia Municipal League and the Virginia Association of Counties) and Social Services departments throughout Virginia have developed the following CSA proposals for the 2009 Session, which the City asks its legislative delegation to support:

- **Foster Care.** The General Assembly should adopt language to sharply limit the use of foster care for the treatment of truancy, delinquency, or other social problems not related to abuse, neglect, or abandonment of children.
- **Match Rate Changes.** Legislation is needed to reduce the administrative complexity of CSA, and to increase funding appropriated to cover the state's matching share of actual administrative costs for CSA. VML supports legislative action to designate all truly community-based CSA services to the community-based service rate.
- **Expanding Community-based Services.** VML supports allowing up to five percent of a locality's CSA funding, based upon a three-year rolling average, to be used to establish or expand community-based services at the discretion of the local CPMT. Appropriate state agencies should provide technical assistance to communities. Unused funds in a given year should be allowed to carry forward to the next year for needed program development.
- **Training.** The state has a responsibility to provide continual training on CSA, and should make training available to all local staff that support the CSA.

Northern Virginia local governments are also supporting the following positions on CSA:

- **Require CSA to comply with the requirements of the Administrative Process Act.** To implement the 2008 changes made by the General Assembly to CSA, the Administration issued three sets of proposed guidelines for public comment. As "guidelines" rather than "regulations,"

the 60-day public comment period required under the Administrative Process Act does not apply, and comment periods have in some cases lasted less than 30 days (including one which allowed only eight working days to respond). This is simply not enough time for appropriate comment on guidelines which regulate the expenditure of hundreds of millions of state and local dollars.

- Increase funding for local administrative costs incurred by the locality to implement the CSA. The proper implementation of CSA requires a significant amount of administrative work, including the regular collection, compilation, and submission of comprehensive data on every youth served through CSA. The current state allocation to local governments to support these activities is significantly below local costs, again shifting CSA costs to the localities.
- Support legislation that designates all CSA-eligible community-based services at the new “Community-based Service” rate. The 2008 General Assembly adopted new state CSA match rates, which provide a different reimbursement level based on the type of service. Under this change the state will provide the highest match for community-based services. Unfortunately, many services which take place in the community (e.g., Alexandria special education students who live at home but attend daily classes in a neighboring jurisdiction) are not classified as community-based. The City recommends that the 2009 General Assembly enact legislation to ensure that all community-based services are reimbursed at the “Community-based Service” rate.
- Give localities the discretion to select the most cost-effective service providers for CSA-funded services. The 2008 General Assembly also authorized the development of mandatory guidelines for the provision of a specific CSA-funded service, intensive care coordination. In implementing that directive, the Administration designated Community Service Boards as the sole source provider of that service. Localities should have flexibility in selecting services and providers, in order to ensure the most cost-effective service provision.

4.L. Child Day Care Services (Early Childhood Commission). State reimbursements to localities for child day care services are based in part on the market rate (75th percentile) for such services in a locality. The State Department of Social Services arranges for a market rate survey every other year, and the survey’s results are used as a reference if new rates are set for each locality. Increases, when they occur, are usually a percentage of the actual market rate. Unfortunately, no money has been provided to increase state rates of reimbursement even when the survey shows that the cost of these services has risen. The most recent change to reimbursement rates was in 2004 and even then, only for children from birth through age 5. While the City realizes that state revenue shortfalls will make an increase unlikely in 2009, the City’s Early Childhood Commission recommends that the City ask its legislative delegation to support a reasonable reimbursement rate increase as soon as it is feasible.

4.M. Dangerous Weapons (Northern Virginia Regional Position). The City, and other Northern Virginia localities, recommend that legislators continue to support any legislative proposals that (1) allow localities to ban weapons in buildings that are owned or leased by the public, or (2) target illegal guns. Likewise, the City recommends opposition to any legislation that would make it easier to traffic in illegal weapons.

4.N. Restoration of Civil Rights for Felons Income (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 has traditionally been one of the most restrictive in the country.

Governor Mark Warner made 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). Governor Tim Kaine has retained these policies. Under them, these offenders may apply for a restoration of rights three years (as opposed to the existing policy of 5 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 continues 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, 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 were enacted, the General Assembly could provide by statute for the continuation of Governor's Warner revised procedures, or it could enact 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 recommendation for the constitutional amendment when it was first proposed. After subsequent discussions with (and on the recommendation of) the City's legislative delegation, however, the City discontinued taking such a position, fearing that a more conservative General Assembly might devise a procedure that was less inclusive and more cumbersome than the one used by Warner and Kaine.

The Alexandria Human Rights Commission Council believes that the time for a constitutional amendment is right this year because of the attention focused on voting in the presidential election, and asks that City support such an amendment

4.O. Healthy Families (Councilman Wilson). Healthy Families Alexandria, a program of Northern Virginia Family Service, 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 89 communities throughout the Commonwealth, using State, local, and private funding. Healthy Families Alexandria serves approximately 219 families in the City. Healthy Families Virginia has selected Healthy Families Alexandria as one of two sites in the State to propose to the next General Assembly for funding to significantly increase the number of families it serves. Alexandria was chosen because of its strong local support (including local government funding), strong outcomes, and its stability. Healthy Families Virginia is requesting an additional \$1.42 million for this expansion, and approximately \$891,000 of this total would be for Alexandria. This would allow the number of families served in the City to increase to about

475. The City requests that its delegation support this proposal.

4.P. Virginia Human Rights Act (Human Rights Commission). The Alexandria Human Rights Commission recommends that the City support strengthening the Virginia Human Rights Act to increase the authority of the Virginia Council on Human Rights and the local agencies that enforce anti-discrimination laws. The Commission recommends opposition to any legislation that would eliminate or weaken the state agency. It recommends that City staff monitor such legislation in the 2009 Session, and take specific bills to Council's Legislative Subcommittee for consideration.

4.Q. Statutory Protection Against Employment Discrimination for State Employees (Human Rights Commission). The Virginia Association for Human Rights at its 2008 annual meeting passed a resolution calling upon the General Assembly to "pass legislation codifying the basic human right of all public employees to be free from discrimination in the workplace based on race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, status as a special disabled veteran or other veteran covered by the Vietnam Era Veterans Readjustment Act of 1974, as amended, and sexual orientation, including gender identity." Recent survey research by the Equality Virginia Education Fund shows that more than 90 percent of Virginians support the right of gay, lesbian, bisexual and transgender citizens to work for the government without discrimination. In the increasingly competitive and diverse workforce and economy, recruiting and retaining the best public employees requires the Commonwealth of Virginia to be as attractive an opportunity as possible. Private businesses have already recognized the competitive advantage afforded by offering progressive employment practices; 94 percent of Fortune 500 companies have non-discrimination policies protecting employees on the basis of sexual orientation and many include gender identity.

The Alexandria Human Rights Commission recommends that the City support such legislation to protect state employees, a number of whom work in Alexandria (e.g., Alexandria Health Department, Court Service Unit).

4. R. Base Realignment and Closure Commission (Northern Virginia Regional Position). Alexandria and most Northern Virginia localities are being significantly impacted by the 2005 recommendations of the Base Realignment and Closure Commission (BRAC), with many Department of Defense (DOD) agencies and commands being moved into or out of facilities in the area. As a result, some local governments expect to lose jobs and tenants in leased space while others face significant shortfalls in the capacity of current infrastructure (especially transportation) to support the additional military and civilian jobs. Given the large number of workers moving to and from Northern Virginia localities, additional state funds are needed for all those affected. Northern Virginia local governments request that the 2009 General Assembly maintain current biennial funding and provide additional state assistance for infrastructure costs including job retraining, studies needed for redevelopment, new construction, retention of military research in the region, and attraction of new tenants to leased space vacated as a result of BRAC.

4.S Amendments to the WMATA Compact. After several years of effort, Congress recently passed legislation authorizing the federal government to pay up to \$150 million per year toward

the costs of the WMATA subway system. In order for the region to be eligible for this funding, some changes must be made to the WMATA Compact (e.g., the addition of federal representatives), and dedicated match funding must be provided by the member jurisdictions (VA, MD, and DC). If appropriate legislation is introduced in the 2009 Session to amend the Compact or to provide the matching funds from Virginia, the City strongly recommends that its legislative delegation support it.

5. Legislation to oppose

5.A. Restrictions on Services to Immigrants and Related Issues (Mayor Euille and Human Rights Commission). 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.

The Alexandria Human Rights Commission recommends that the City ask its legislative delegation to continue 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.

5.B. 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 Alexandria Human Rights Commission recommends that the City ask its legislative delegation to continue to oppose any legislative proposals 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.

5.C. Reductions to K-12 Funding for Northern Virginia Cost of Competing (Northern Virginia Regional Position). As a result of a 1988 recommendation of the General Assembly's Joint Legislative Audit and Review Commission (JLARC), the State has provided additional education funding to Northern Virginia localities in recognition of the fact that higher salaries must be paid to attract school employees in this market. In spite of the fact that this practice has been in place for 20 years, it still comes under attack by legislators from outside the region. The region's localities ask that the Northern Virginia General Assembly delegation strongly oppose proposal any proposals that are made in the 2009 Session to reduce or eliminate these payments.

FY 2009 BUDGET REDUCTIONS: On October 9, Governor Kaine announced a long-anticipated official reforecast of state revenues, projecting \$2-3 billion less in state general fund revenues for the biennium than had been budgeted during the 2008 General Assembly Session. In order to balance the state budget, he also announced a series of reductions to the state budget for the current fiscal year.

As a result of the Governor's actions, the City will receive \$240,461 less in HB599 (local law enforcement) assistance; approximately \$250,000 less in administrative funds for the Alexandria Community Services Board; and about \$200,000 to \$250,000 less in salaries for state-supported

local employees (an increase that was scheduled to go into effect at the end of 2008 has been postponed until at least July, 2009).

State funds going to the Arlandria Clinic are also being reduced by \$4,542. A number of vacant positions are being eliminated in local health departments and court service units, and both the Alexandria Health Department and the Alexandria Court Service unit expect to lose positions, as well as funding for travel, training, and other services.

There are other cuts, such as reductions in funds for litter control, arts organizations and historic resources that may affect programs in Alexandria but, for the most part, these appear to be minimal and any impact on City government programs cannot be estimated at this time. Finally, there are state agency reductions (e.g., reduced State medicaid funding; reduced funds to treat and divert from jail mentally ill individuals; the closure of state prisons, which could lead to housing more prisoners in local jails; reductions in state juvenile correction facilities) that could have an indirect impact on the City, although we have no way of estimating that impact.

On December 17, the Governor will announce further reductions that he will recommend to the 2009 General Assembly, especially for FY 2010. It is safe to assume that some of these will have a direct impact on the City budget for FY 2010 (and possibly even FY 2009).

ATTACHMENTS:

Attachment 1 – City of Alexandria 2009 Legislative Package Proposals

Attachment 2 – 2009 NVAN (Northern Virginia Aging Network) State Legislative Platform

STAFF: Bernard Caton, Legislative Director

ATTACHMENT 1

CITY OF ALEXANDRIA 2009 LEGISLATIVE PACKAGE PROPOSALS

1. Issues of Greatest Concern to the City

1.A. Alexandria Jail Federal Prisoner Per Diems.

1.B. Reductions in State aid to localities.

2. Requests for Legislation to Be Proposed

2.A. Prohibit cell phone use while driving

2.B. Election Laws and Poll Watchers

2.C. Plastic Bags--authority for localities to regulate

3. Carryover Legislation

3.A. ABC permits for Certain Museum Events.

3.B. FOIA Exemption for Museum Gifts and Loans.

3.C. Land Preservation Tax Credit.

4. Legislation to Support

4.A. Transportation Funding.

4.B. High rise sprinklers (support case-by-case review and requirements).

4.C. Prohibiting Smoking in Restaurants

4.D. Emergency extensions of polling hours

4.E. Prohibiting Housing Discrimination Based on Source of Income

4.F. Pre-K Childhood Education

4.G. Marking Water and Sewer Lines on Private Property.

4.H. CSBs: Protect Current Funding

- 4.I. CSBs: Local Inpatient Purchase of Beds (LIPOS)
- 4.J. NVAN platform.
- 4.K. Comprehensive Services Act
- 4.L. Child Day Care Services
- 4.M. Dangerous Weapons
- 4.N. Restoration of Civil Rights for Felons Income
- 4.O. Healthy Families
- 4.P. Virginia Human Rights Act Income
- 4.Q. Statutory Protection Against Employment Discrimination for State Employees
- 4. R. Base Realignment and Closure Commission
- 4.S. Amendments to the WMATA Compact
- 5. Legislation to oppose**
- 5.A. Restrictions on Services to Immigrants and Related Issues
- 5.B. Undocumented Students
- 5.C. Reductions to K-12 Funding for Northern Virginia Cost of Competing