

WS  
11-22-11

**CITY COUNCIL WORK SESSION  
with the  
STATE LEGISLATIVE DELEGATION  
TUESDAY, NOVEMBER 22, 2011  
5:30 P.M.  
COUNCIL WORKROOM**

**AGENDA**

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|------|--|--|
| I.   | Welcome and Comments by the Mayor  | <i>Mayor William D. Euille</i>   |
| II.  | Review of the Legislative Package Proposals<br>(See attached listing of proposals)                 | <i>Legislative Director Bernard Caton</i>  |
| III. | City Council Discussion of Legislative Package   |  |
| IV.  | Determination of Delegation Sponsors and Comments by<br>Members of the General Assembly Delegation | <i>Delegate Adam Ebbin<br/>Delegate David Englin<br/>Delegate Charniele Herring<br/>Senator George Barker<br/>Senator Richard Saslaw<br/>Senator Patsy Ticer</i> |
| V.   | Discussion of proposals by Members of the General Assembly Delegation                              |  |
| VI.  | Discussion of VRS Issues   |  |
| VII. | Other business   |  |

*Individuals with disabilities who require assistance or special arrangements to participate in the City Council Work Session may call the City Clerk and Clerk of Council=s Office at 746-4500 (TTY/TDD 838-5056). We request that you provide a 48-hour notice so that the proper arrangements may be made.*

**CITY COUNCIL WORK SESSION with the  
STATE LEGISLATIVE DELEGATION  
ALEXANDRIA'S 2012 LEGISLATIVE PACKAGE  
November 22, 2011**

**2012 GENERAL ASSEMBLY SESSION: PROPOSED CITY PACKAGE ITEMS**

*Items with a [V] are supported by the Virginia Municipal League,  
and those with an [N] are supported by Northern Virginia localities; individuals and  
boards/commissions that proposed items are shown in parentheses.*

**A. MAJOR FISCAL ISSUES**

1. **[V,N] Discontinue the Local Aid to the State Program.** In the 2009 General Assembly, a provision was added to the biennial State budget requiring localities to give back funds to the State to help the State deal with its revenue shortfall. This “give back” was set at \$50 million annually statewide, and was in addition to various programmatic reductions in state funding of state-local programs. The portion of the \$50 million allocated to the City of Alexandria was \$1.1 million; the City had to give back a similar amount in FY 2010. As the State’s FY 2011-12 budget was prepared, this local aid to the state program was increased to \$60 million annually statewide. The City share for the current biennium (FY 2011 and FY 2012) is approximately \$2.5 million. The State should never have balanced its budget on the backs of local governments, and now that State revenues have improved, this program should be discontinued.
2. **[V,N] Funding the State-Local Partnership.** In order to balance the state budget in recent years, the State has adopted a number of unusual and sometimes questionable practices, including the Local Aid to the State program described above. Others include funding for human service, social service, and mental health programs; HB 599 local law enforcement; K-12 education; and funding for constitutional officers and local jails. Again, now that State revenues are improving, the State should redirect more of its revenues to shared state-local programs. In addition, any proposals that would reduce the ability of localities to raise local revenues (such as the BPOL tax) should be opposed.
3. **[V,N] Transportation Funding—General Position (Transportation Commission).** The City of Alexandria and other Northern Virginia jurisdictions (as well as localities statewide) continue to seek additional funding for transportation. Revenues from all major transportation funding sources continue to deteriorate, yet needs continue to rise. New funding must be found to cover major transit needs, as well as road construction and maintenance. Any funding source must continue to include dedicated revenue needed to meet federal match requirements for the Washington Metropolitan Area Transit Authority. Transportation formulas should not be revised in a way that will lessen revenues coming to Alexandria. Finally,

any new transportation funding must not be taken from traditional core service funding programs, such as education and public safety.

4. Transportation Funding—Maintenance Payments. The Commonwealth Transportation Board has appointed a subcommittee to study maintenance payments for streets and highways. Among the potential recommendations is the possibility of shifting the responsibility for city and town (and possibly county) maintenance costs to localities, so that the State will have more revenue to pay for needed construction projects and other State costs (e.g., interstate maintenance). Such an initiative may also include an attempt to transfer the responsibility for maintenance of county roads, along with the responsibility for paying for that maintenance, to county governments. State gasoline tax revenues have always been used to pay for maintenance. If the State is unwilling to raise sufficient revenues to pay for transportation needs, it should not transfer the responsibilities for raising these revenues to localities, which would then have to increase local tax rates to pay for this added responsibility.
5. [V,N] Line of Duty Benefits. Alexandria supports efforts to return funding responsibility for the Line of Duty program to the State, which created Line of Duty as a State program. Should local government be required to pay these benefits, they should have the authority to establish and administer these benefits.
6. [V] Eminent Domain. Legislation (Attachment 2) was passed in 2011 to add an amendment to the Virginia Constitution that will fundamentally change the law regarding eminent domain; this legislation must be reenacted in the 2012 Session for the proposal to go on the ballot in November 2012. The proposed change being contemplated is far-reaching and expensive, and includes unintended consequences.

The amendment has two provisions that are extremely troublesome. The first involves lost profits and lost access. A locality will have to pay property owners for lost access and lost profits caused by government action—whether or not any land is acquired from the owners. For example, suppose a City four-lane street through commercial corridor is overloaded. The city installs medians and traffic lights to improve traffic. Every business along the street has lost access – no left turn in or left turn out. Every business can sue the City for that lost access. The taxpayers foot the bill. Or suppose the City closes a major street for the weekend for an arts festival. Every business that loses customers as a result can sue the City for lost profits. Again, the taxpayers foot the bill. A final example—what if a water main breaks in the middle of winter on a busy commercial street and repairs close the street for several days. The businesses on the closed street have claims for lost access and lost profits – and again the taxpayers foot the bill.

The second troublesome provision prohibits using eminent domain for economic development. The amendment prohibits eminent domain if the purpose is for “increasing jobs, increasing tax revenue, or economic development.” What if a new commercial building is constructed, but a water line easement is needed to

provide water to the site. The landowner where the easement is needed can argue that the purpose is economic development and charge whatever he wants for the easement (not fair market value, as eminent domain provides). The taxpayers foot the bill or the City doesn't run the water line and the project dies.

The City asks its General Assembly delegation to oppose the Constitutional amendment as currently proposed. The Virginia Municipal League discussed the amendment and voted to oppose it at its 2011 annual Conference.

## B. LEGISLATION TO INTRODUCE

1. **HIV/AIDS Funding** (Alexandria Commission on HIV/AIDS). The Virginia AIDS Drug Assistance Program (ADAP) is insufficiently funded in FY2012 and beyond to meet the needs of low-income Alexandrians, as well as other Virginians, for whom medication cannot be purchased through health insurance, Medicare or Medicaid. In FY2011, the State Health Department was forced, for the first time, to establish a waiting list for ADAP assistance. As of July 1, 2011, the waiting list in Virginia numbered 850 individuals, of whom 36 were Alexandria City residents. New applicants for ADAP are now limited to children under 18, pregnant women and people with an active infection related to AIDS, such as TB or certain kinds of pneumonia. The Virginia Department of Health is now using an out-of-state mail-order pharmacy to supply AIDS drugs to those who are on the waiting list, but it is unclear how long this option will be available. The Alexandria Commission on HIV/AIDS recommends full funding of ADAP or another appropriate source of AIDS drugs in the State's FY2013 budget. ADAP program supporters are working with the State Health Department to determine the amount of funding needed, but it is estimated at \$6.4 million or more annually.
2. **Funding for High Capacity Transit Corridors** (Krupicka). New funding is needed for high capacity transit corridors so that localities can build and operate the mass transit and other transportation improvements needed for such corridors. The City recommends that the General Assembly give new funding tools to local governments that encourage them to plan and implement these systems. These sources could include one or more of the following to support the planning, construction and operations of the corridors, through direct payments, bonding or other tax-increment financing:
  - a. **New Gasoline Revenues:** Allow a local government to raise the gasoline tax in its jurisdiction by up to 2 percent, provided that the funds generated by the increase are used for high capacity transit corridor infrastructure, the operation of the locality or region's transit systems, or both.
  - b. **New Retail Sales Tax Revenues:** Allow a jurisdiction to increase the retail sales tax by up to 0.5 percent in order to pay for transit infrastructure.
  - c. **State Grant Funding:** Introduce legislation or a resolution asking the Commonwealth Transportation Board to give high priority to funding for high capacity transit corridor projects whenever possible.

3. **Increased Flexibility for Unused Virginia Preschool Initiative (VPI) Funds (Krupicka)**. Each year millions of dollars of state preschool money goes unused because local jurisdictions are not able to come up with matching funds. Providing a match is particularly difficult now as the struggling economy prevents many local governments from expanding Pre-K services. The City recommends that its delegation support any proposals to increase the use of VPI funds, and encourage the creation of a competitive grant process that allows local communities to apply for the unused funds for purposes such as improved preschool teacher training, the expansion of preschool space, the implementation of the Virginia Quality Rating System, or the creation of innovative early childhood programs for rural communities where access to services is limited.
4. **Local Option for Setting the Opening Day of School (Donley & Krupicka)**. Current Virginia law prohibits school divisions from beginning the school year before Labor Day (although exceptions are allowed for school systems that experience a significant number of closures due to bad weather). Many school systems believe they would improve student performance, especially on standardized tests, if they could begin the school year sooner. This proposal would allow each school board to set the beginning of the school year on whatever day it deems appropriate.
5. **Equality in Adoption (Krupicka and Human Rights Commission)**. The City recommends the introduction of legislation to allow any adult couple that wants to share in the adoption and commitment to care for a child, to be eligible to do so. The well-being of the child should be the priority in adoptions.
6. **Virginia Human Rights Act - Discrimination in Employment (Human Rights Commission)**. The City recommends that the Virginia Human Rights Act be amended to address these issues:
  - **Protect individuals from discrimination in all matters of employment.** The Virginia Human Rights Act provisions prohibiting employment discrimination currently apply only to termination of employment. The Commission recommends that it be amended to include discriminatory actions with respect to hiring or the terms and conditions of employment.
  - **Protect employees of all firms with five or more employees from discrimination.** Virginia anti-discrimination statutes currently protect only employees of employers with 5 to 14 employees from being wrongfully terminated (on the basis of race, religion, etc.). Federal law applies to employers with 15 or more employees. Federal law prohibiting age discrimination, however, applies only to employers with 20 or more employees. The Commission recommends fixing this discrepancy by amending the Virginia Human Rights Act so that it prohibits the various types of employment discrimination (hiring,

termination, age, and terms and conditions of employment) for any employer with five or more employees.

7. Statutory Protection Against Employment Discrimination for State Employees (Human Rights Commission). The City recommends the introduction of legislation which would prohibit workplace discrimination against State employees. City Council passed a resolution unanimously on June 23, 2009, supporting the right of all public employees to be free from discrimination in the workplace. In March 2010 City Council adopted a resolution proposed by the Alexandria Human Rights Commission on the protection of public employees from workplace discrimination. Survey research 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.
8. Restore 19 Adult Beds at Northern Virginia Mental Health Institute (NVMHI). The City requests that its delegation introduce or support budget language that will restore State funding for the 19 beds that were eliminated at the Northern Virginia Mental Health Institute in the spring of 2010. Thirteen of the 19 beds have been temporarily restored using one-time State funding, which will run out on July 1, 2012. The need for these beds in Northern Virginia is critical. This area has fewer state-funded beds per capita than any other region in the state and 52 private psychiatric beds have been closed over the past several years. These reductions often cause a shortage of psychiatric beds during mental health emergencies. Lack of beds can result in releasing people from custody even though they meet criteria for detention and are a danger to themselves or others. The cost of keeping the 19 beds open is estimated by NVMHI at \$1.8 million annually. This is the highest funding priority for the Alexandria Community Services Board (CSB), as well as other CSBs in the region.
9. Implement Regional Crisis Intervention & Stabilization for Individuals with Mental Health and Mental Health with Co-occurring Substance Abuse Issues--Children. The City also supports funding for up to 5 regional CSB pilot programs (including one in this region) that will offer a full array of Crisis Stabilization services for children undergoing acute crises (they are a danger to themselves or others). Many of these children are now transported to a State facility in Staunton, tying up City staff for many hours. It would be preferable for many of these children to be treated at a facility nearer to the community. This is the second highest funding priority for the Alexandria CSB, as well as other CSBs in the region.

10. Veterans Support Study (Krupicka). Virginia has one of the largest veteran populations in the country. When veterans return home from overseas duty and re-enter civilian life, they often need assistance in getting jobs, health care, housing and education. The obligations that the nation owes its veterans will likely create strains on local government services, including housing, homeless shelters, employment assistance, and CSB services. Since we cannot assume that the federal government will meet all these needs, there must be a strong network of state, local and not-for-profit organizations to assist veterans. Rather than wait until the lack of a network results in crises, the City recommends that the General Assembly or the executive branch, in partnership with local governments, formally study the needs of veterans and their families in Virginia and the impact of those needs on state and local government. The outcome of the study should be a plan for the provision of support for veterans.

### C. LEGISLATION TO SUPPORT

1. Supplier Diversity in Contracting (Councilwoman Hughes). The City supports legislation that will make supplier diversity in State government contracting a priority.
2. Anti-bullying legislation (Human Rights Commission). The City will support legislation, if introduced, which would amend the existing anti-bullying statute to include sexual orientation and gender identity, and the perception thereof, in the definition of bullying. North Carolina's statute has the following language:

*"Bullying or harassing behavior includes, but is not limited to, acts reasonably perceived as being motivated by any actual or perceived distinguishing characteristic, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation, or mental, physical, developmental, or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics."*

44 states have cyber-bullying or anti-bullying laws; 7 states have neither one.

3. Stop for Pedestrians (Transportation Commission). For a number of years, the City had legislation introduced that would have revised the State's crosswalk laws so that drivers would have been required to stop—not just yield—to pedestrians in crosswalks where the speed limit was 35 mph or less. The legislation never passed, and for strategic reasons (we seemed to be losing ground rather than gaining), the City stopped asking for the legislation, hoping that legislators from other parts of the State would introduce it. This has not yet happened. The Transportation Commission has asked that we continue to support such legislation if it is introduced.
4. NVAN Platform (Commission on Aging). The Commission on Aging asks that the City support the legislative platform of the Northern VA Aging Network,

which includes a number of requests for appropriations as State revenues rebound in the future:

- Protect older and vulnerable adults by criminalizing their financial exploitation.
- Support visitability and accessibility options for new single family homes.
- Ensure that nursing home residents receive notice of the right to return to a nursing home following a hospital stay.

Budget Priorities

- Support services that keep older adults in their home and communities.
- Build a quality long-term care workforce.
- Support public guardianship/conservatorship services for vulnerable, at-risk adults.

Continuing Concerns

- Provide a Community-based Continuum of Psychiatric Care.
- Promote Livable Communities.
- Provide access to Respite for Virginia's Caregivers.
- Support Long-Term Care Ombudsman staffing by the State.
- Improve voting access.

The City has supported the NVAN platform for a number of years; this allows Commission members to lobby (as Alexandria Commission members) for its components.

5. The Alexandria Economic Opportunities Commission recommends that the City support legislation at the 2012 General Assembly session that would assist low income Virginians. Such legislation could include proposals such as:
  - A tax incentive for businesses in Virginia that hire low-income Virginia residents as employees (validated through payroll records and/or audit);
  - Tax incentives and State funding for existing Virginia businesses to promote on-the-job training for new hires and apprenticeship programs for low-income and/or unemployed Virginians in professional and skilled industries;
  - Re-establishment, with funding, of the Virginia Housing Trust Fund to provide more affordable housing in Alexandria and all of Virginia; and
  - The restoration of State funding to Community Action Agencies.
6. Implement Regional Crisis Intervention & Stabilization for Individuals with Mental Health and Mental Health with Co-occurring Substance Abuse Issues--Older Adults (Alexandria CSB). Alexandria supports the creation of a Geriatric Psychiatric System of Care in each region of Virginia at an average cost of \$2 million per region. This funding will be used to provide services for older adults at times of crisis in order to augment the effective use of the acute care resources in the least restrictive treatment environment (e.g., their home, or a local nursing home). These funds are needed to eliminate disparities in health care for older adults, increase the number of staff trained to provide community-based crisis

prevention and stabilization for geriatric populations, and augment current CSB services.

7. Support community placement of individuals leaving State training centers, and high-need individuals living in the community (Alexandria CSB). To ensure services for high-need individuals both from State training centers and the community, Alexandria supports changing the Intellectual Disabilities (ID) Medicaid Waiver rate and rate methodology. The number of beds at the Northern Virginia Training Center has decreased from 193 in 2005 to 169 in 2010, and further reductions are occurring. Alexandria, like many localities, has no community beds available to serve individuals discharged from the training centers. Our nonprofit residential providers are reluctant to increase the numbers served due to non-competitive Medicaid reimbursement rates. To discharge people successfully from training centers (and serve high-need individuals currently living in the community who would otherwise be referred to the training centers), the State must restructure the ID waiver reimbursement system so that these individuals can be supported in the community. Changes must be made to the waiver rate and rate methodology in order to place fewer restrictions on the reimbursement of service providers, as well as increases in the reimbursement amount. Other changes that would facilitate the expansion of community capacity to serve high-need individuals include: broadening the allowable uses of State Capital Funds (i.e., Community Housing Funds) beyond the construction of community-based intermediate care facilities (ICFs) and waiver-funded group homes for persons discharged from training centers; allowing current community residents to be admitted to these ICFs and group homes, thereby preventing future admissions to training centers; and shortening the waiting time for processing initial State reimbursements to newly-certified ICFs.
8. Merge the Intellectual Disability (MR/ID) Medicaid Waiver with the Individual and Family Developmental Disabilities Support (DD) Medicaid Waiver and expand services to individuals with autism spectrum disorder (ASD) (Alexandria CSB). This would allow the ACSB and its counterparts to better serve this population. The cost of doing this would be small—about \$600,000 would be needed to train staff in the assessment, treatment planning, and coordination of services for children with ASD.
9. Provide funding statewide for Peer Model Recovery Support Services (RSS) (Alexandria CSB). There are only five state-supported RSS organizations in Virginia, and Alexandria does not have one. RSS programs use recovering substance abusers to work with current substance abusers. RSS programs have been shown to improve the outcomes for consumers with substance abuse. This proposal seeks sufficient funding for each CSB to hire at least one Peer Recovery Support Specialist to provide peer addiction recovery support services before, during, and after a substance abuser's participation in a formal treatment system.

10. Provide additional funding for Children's Psychiatry Services (Alexandria CSB). There is a significant lack of child psychiatry services available statewide to children in need of these services. The City supports additional funds to be used by CSBs to provide child psychiatry services to an additional 4,000 children per year statewide.
11. Energy Conservation (Krupicka). Councilman Krupicka recommends that the City support legislation to change the way the State Corporation Commission evaluates potential energy saving and conservation projects. Virginia appears to be one of the few states in the country that uses a formula that evaluates potential energy saving and conservation projects based on how they impact energy users who don't participate in the conservation program. This approach makes it much harder to justify the return on investment for a project. Instead, Virginia should follow other states and evaluate conservation projects based on the total energy savings and return on investment they create for the entire state. Moving to this Total Resource Cost test would enable a number of projects to move forward, saving Virginians energy and money. Experts from Duke University and Georgia Tech estimate that this change could help Virginia save up to \$1.8 billion (\$325 per household) and create 28,500 new jobs by 2020.