EXHIBIT NO. 1

22
4-8-03

City of Alexandria, Virginia

MEMORANDUM

DATE: APRIL 3, 2003

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER PS

SUBJECT: AN ORDINANCE TO AMEND THE PROVISIONS OF TITLE 3, CHAPTER 2 OF THE CITY CODE, RELATING TO REAL ESTATE TAX RELIEF, AS PASSED ON FIRST READING ON FEBRUARY 11, 2003 (DOCKET ITEM NO. 15)

ISSUE: Consideration of the adoption of an amendment, in the nature of a substitute to the ordinance, to amend the provisions of Title 3, Chapter 2 of the City Code, relating to real estate tax relief, as passed on first reading on February 11, 2003 (Docket Item No. 15).

RECOMMENDATION: So that it can consider the full range of options during the FY 2004 budget process, that City Council adopt the amendment in the nature of a substitute, and set the ordinance as amended, for public hearing Tuesday, April 22, 2003, and second reading and final passage Tuesday, April 29, 2003. The proposed substitute ordinance is structured with three program options, all or any of which could be adopted if City Council determines in the FY 2004 Add/Delete process that it wishes to fund a further expansion of tax relief. The substitute ordinance is structured to:

1. Expand the existing tax relief program for the elderly and disabled to include the following:

   - Increase the maximum income limit to qualify for a full real estate tax exemption from the current $12,800 to $40,000;

   - Change the maximum income limit to qualify for a partial exemption equal to 50% of the taxes owed for the year from the current $35,000 to $50,000;

   - Establish the maximum income limit to qualify for a partial exemption equal to 25% of the taxes owed for the year at $62,000;

   - Continue to offer a deferral of real estate taxes for qualified applicants with total income that does not exceed $62,000;

- Increase the asset eligibility limit for the real estate tax relief program from \$195,000 to the new State limit of \$240,000; and

- Increase the deduction allowed for a family member living in the household from \$6,500 to the new State limit of \$8,500.

2. Establish a new Residential Real Estate Tax Deferral Program for Owner/Occupants which includes the following provisions:

   - Permit taxpayers to defer the portion of their actual tax bill that exceeds 110% of their 2002 tax bill;

   - Establish the income limit to qualify for the deferral program at \$45,200 for a household of up to two persons (HUD Low-Income measure) and \$4,000 for each additional dependent;

   - Subject the deferred tax amount to interest at the IRS Section 6621 rate; and

   - Limit the City's first priority lien for deferred taxes and interest to 10% of the sale price, or 10% of the assessed value if there is no sale.

3. Establish a new Small Business Real Estate Tax Deferral Program, which includes the following provisions:

   - Permit a business to defer the portion of their actual real estate tax bill that exceeds 110% of their 2002 tax bill;

   - Establish the annual gross income limit for a business to qualify for the deferred program at \$100,000;

   - Limit the assessed value of the real estate property owned and used by the business to \$499,900; and

   - Limit the City's first priority lien for deferred taxes and interest to 10% of the sale price, or 10% of the assessed value if there is no sale.

DISCUSSION: On February 11, 2003, City Council passed the proposed ordinance, which only addressed changes in tax relief for the elderly and disabled, on first reading. On February 22, 2003, Council deferred second reading and final passage of the proposed ordinance, and requested staff to consider additional changes to, and substantial expansion of the tax relief program. The revisions were discussed at the March 26, 2003, Budget Work Session.

In response to the discussions at the Budget Work Session, a proposed substitute three-part ordinance has been prepared. This ordinance creates three divisions within the City's Real Estate Tax Relief Program: 1) Tax Relief for the Elderly and Disabled; 2) Residential Real Estate Tax Deferral; and 3) Small Business Real Estate Tax Deferral. Each division is discussed separately.

1) **Tax Relief for Elderly and Disabled (Recommended)**: This particular program has been in existence for many years. Program enhancements were implemented in 2001 and 2002. In February 2003, staff proposed a new program to include an increase in the program income limits. However, the proposed program limits were not comparable to those of Arlington and Fairfax Counties. The substitute ordinance increases the City's maximum income limit to qualify for a full real estate tax exemption from the current $12,800 (or $25,600 in certain circumstances) to $40,000. Arlington County uses a comparable limit of $39,585 and Fairfax uses $40,000. The substitute ordinance changes the City's income limit to qualify for a partial exemption equal to 50% of the taxes owed for the year from the current $35,000 to $50,000. The limit for Arlington is $48,720 in the same category. Fairfax uses $46,000. Additionally, the substitute ordinance establishes the income limit to qualify for a partial exemption equal to 25% of the taxes owed for the year at $62,000. This limit equals that used by Arlington County in the same category. This is also the maximum income limit permitted by State Code for eligibility in the tax relief program administered by jurisdictions in Northern Virginia. Fairfax uses $52,000 as the deferral limit for the elderly and disabled.

If City Council decides it wishes to expand tax relief for the elderly and disabled to the levels included in this revised ordinance (Division 1), then Council will need to earmark $200,000 in the upcoming FY 2004 Add/Delete process to fund the expansion of the existing program to this level. Given that the structure and processes of the existing elderly and disabled tax relief program works well, and given other jurisdictions' experience with tax relief programs with similar eligibility levels, City staff does not see any issues with implementing this expanded program.

2) **Residential Real Estate Tax Deferral (Not Recommended)**: At the February 22 Public Hearing, Council asked staff to develop a tax relief program for City Council consideration which would cover more than just the elderly and disabled. The Residential Real Estate Tax Deferral Program, as laid out in the substitute ordinance, is designed to meet Council's request. Since at least 1990, the State Code has authorized a general real estate tax deferral program. To date, no jurisdiction in Virginia has implemented the program.

In the program described in the attached substitute ordinance, a family of one or two with an income at or below $45,200 (HUD Low Income Limit) would be able to defer the portion of their actual 2003 tax bill that exceeds 110% of their 2002 tax bill. The deferral would be subject to interest at the IRS Section 6621 rate, as mandated by the State Code. In order for banks and mortgage companies to accept the deferral program, the substitute ordinance limits the City's first priority lien for the deferred amount to 10% of the sales price, or 10% of the assessed value if there is no sale. While this theoretically puts repayment of the deferred amount to the City at risk, it is highly unlikely that the total amount of cumulative deferrals would ever reach this level.

The following chart shows the amount that could be deferred on the average residential condominium and single family unit in the City if this program would have been in effect for the last ten years. For tax year 2003, a real estate tax rate of $1.05 has been assumed.

	Average Residential Condominium		Average Single Family Residence	
Year	% tax increase	Average amount deferrable	% tax increase	Average amount deferrable
1994	-1.79%	no deferral	-0.09%	no deferral
1995	-0.24%	no deferral	1.33%	no deferral
1996	-0.29%	no deferral	1.33%	no deferral
1997	-1.85%	no deferral	1.07%	no deferral
1998	3.13%	no deferral	4.99%	no deferral
1999	-0.95%	no deferral	2.51%	no deferral
2000	4.06%	no deferral	6.47%	no deferral
2001	8.28%	no deferral	11.32%	$38
2002	13.65%	$47	12.48%	$122
2003	27.36%	$305	18.61%	$478

City staff does **not** recommend establishing a Residential Real Estate Tax Deferral Program for many reasons, including the following:

- The program is an entitlement with no budget limits. If adopted, the City cannot refuse to grant a deferral to a taxpayer who meets the qualifications. There is a huge uncertainty as to the amount of this entitlement. If all of the 2,300 taxpayers who City staff estimates may qualify for the program elect to participate, the first year's deferred taxes would be approximately $750,000. If only 10% of the qualified taxpayers utilize the program, the deferred taxes would be $75,000. No one on staff has enough information to make a solid educated guess as to the percentage of taxpayers who would elect to participate in the program. With no other Virginia jurisdiction ever adopting this type of program, there is no track record to guide costing this program. Staff is estimating if 20% participate, the cost would be $150,000 for deferrals. Administrative costs are estimated at $75,000.

- The program is expensive to administer (estimated at $75,000, or one-half the estimated total tax deferred benefits) and would require the hiring of at least one additional staff. It is possible that the administrative costs would exceed the direct benefit to taxpayers.

- Citizens would need to be made aware of the advantages and requirements of this program. A major advertising and communications campaign would be needed to properly initiate the program. This campaign is envisioned to include direct mailing and newspaper advertising and cable television use.

- There is just a short time to advertise the program for 2003, accept and process applications between now and May 15 (first half real estate bills are mailed) or June 15 (tax payments are due). No matter how much advertising the City does, many potentially eligible taxpayers will still become confused and frustrated. They may not understand if they can defer a portion of the bill, or if they are required to pay the total bill and get a refund for the portion deferred.

3) Small Business Real Estate Tax Deferral Program (Not Recommended): At the Budget Work Session, Council discussed the possibility of extending the tax deferral program to small businesses. The substitute ordinance includes a Small Business Real Estate Tax Deferral Division designed to meet Council's request. Under the program, a small business that owns real estate with a value of less than $499,900 and has gross receipts of less than $100,000 would be able to defer the portion of their 2003 real estate taxes that exceeds 110 % of their 2002 tax bill.

City staff does **not** recommend this program. Commercial property has not increased in value as drastically as residential property. There are 996 commercial properties with an assessed value of less than $499,900. Approximately 240, or 25%, had an increase in assessment of more than 10%. Most of those were office condominiums which on the average experienced an increase in their real estate assessment of approximately 11%. City staff does not expect many businesses to bother with the paper work to defer only one percent of their tax bill. As a result, the cost of advertising and notifying businesses about this program, at least for this year, would probably exceed the amount businesses actually defer.

FISCAL IMPACT:

1) Tax Relief for the Elderly and Disabled: Based on the applications the City received last year for the Tax Relief for the Elderly and Disabled program, staff estimates that the enhancements in excess of those recommended by the staff in February would cost an additional $200,000.

2) Residential Real Estate Tax Deferral: This year alone, staff estimates that the amount of taxes deferred under this program may fluctuate from $75,000 to $750,000. This depends on what percentage of qualified taxpayers take advantage of the program. If 20% of qualifying taxpayers take advantage of the program, the cost would be $225,000, which includes $75,000 in administrative costs and $150,000 in deferral costs.

3) <u>Small Business Real Estate Tax Deferral</u>: Staff does not believe many businesses would use the tax deferral program. Therefore, the costs of this phase of the tax deferral program would consist primarily of advertising (printing, distribution and direct mailing of brochures). This will be geared toward explaining the program to taxpayers. Staff estimates the cost to be $15,000, mostly in administrative costs.

The costs of the various phases or divisions of the Real Estate Tax Relief Program (beyond the tax relief program expenses included in the FY 2004 Proposed Budget) are not included in the proposed budget. Each division would have to be separately put on the Add/Delete list if Council wishes to have any one of the three divisions of the program enacted.

Due to the highly uncertain nature of the costs and issues of the Residential and Small Business Deferral programs, the drafted ordinance includes a sunset provision at the end of calendar year 2004. This will create a mechanism for the program to be evaluated and re-adopted or terminated after two years of experience. It is also likely that the current annual double digit rate of increased assessments will have slowed by 2005.

<u>ATTACHMENTS</u>: Proposed Substitute Ordinance

<u>STAFF</u>:
Mark Jinks, Assistant City Manager
D. A. Neckel, Director of Finance

Attachment 1

EXHIBIT NO. 2

22
4-8-03

Introduction and first reading:	2/11/03
Amendment in the nature of a substitute	4/08/03
Public hearing:	4/22/03
Second reading and enactment:	4/29/03

INFORMATION ON PROPOSED SUBSTITUTE ORDINANCE

Title

AN ORDINANCE to amend and reordain Article L (REAL ESTATE TAX EXEMPTION OR DEFERRAL FOR ELDERLY OR PERMANENTLY AND TOTALLY DISABLED PERSONS), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

Summary

First, the substitute ordinance, known as the City of Alexandria Real Estate Tax Relief Ordinance, would adjust the income and net worth limits for the exemption from, or deferral of, real estate taxes for elderly or disabled taxpayers, by raising the existing limits for tax relief. Such taxpayers who have an income up to $40,000 would be exempt from all real estate tax on their house. Those with an income between $40,001 and $50,000 would be exempt from 50% of the tax on their house, and may defer the 50% balance, and those with an income between $50,001 and $62,000 would be exempt from 25% of the tax on their house, and may defer the 75% balance. Deferred amounts accrue interest, and other terms and conditions for relief apply.

Second, the substitute ordinance would establish a new residential real estate tax deferral program for owner/occupants with limited incomes, but who are not elderly or disabled. Under this program, a taxpayer with a household income up to $45,200 would be permitted to defer that portion of his or her actual 2003 real estate tax bill which exceeds 110% of the taxpayer's 2002 tax bill. In subsequent tax years, the taxpayer can defer the amount which exceeds 110% of the amount required to be paid and not subject to deferral in the previous year. Thus, the net effect is to cap the amount of the bill which must be paid, and cannot be deferred, at 10% over the amount from the immediately prior year. Deferred amounts accrue interest. Again, other terms and conditions for this tax relief apply.

Finally, the substitute ordinance would establish a new real estate tax deferral program for small businesses which own their business property. Under this program, the property for which tax deferral is sought must be the taxpayer's sole place of business. In addition, the gross receipts of the business for the prior year cannot exceed $100,000, and the assessed value of the property used for the business cannot exceed $499,900. A small business would be permitted to defer that portion of its actual 2003 real estate tax bill which exceeds 110% of the taxpayer's 2002 tax bill. In subsequent tax years, the taxpayer can defer the amount which exceeds 110% of the amount required to be paid and not subject to deferral in the

previous year. Thus, the net effect is to cap the amount of the bill which must be paid, and cannot be deferred, at 10% over the amount from the immediately prior year. Deferred amounts accrue interest. As with the residential program, other terms and conditions for this tax relief apply.

The limits described above, and the terms and conditions of each program, are subject to amendment by the City Council, to the extent permitted by Virginia law, during the process for adopting this ordinance.

<u>Sponsor</u>

<u>Staff</u>

Mark Jinks, Assistant City Manager
Daniel A. Neckel, Director of Finance
Ignacio B. Pessoa, City Attorney

<u>Authority</u>

§§ 58.1-3210, *et seq.*; 58.1-3219, *et seq.*, Code of Virginia

<u>Estimated Costs of Implementation</u>

See memorandum from the City Manager.

<u>Attachments in Addition to Proposed Ordinance and its Attachments (if any)</u>

None

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EXHIBIT NO. 3

22
4-8-03

AMENDMENT IN THE NATURE OF A SUBSTITUTE
ORDINANCE NO. ______

AN ORDINANCE to amend and reordain Article L (REAL ESTATE TAX EXEMPTION OR DEFERRAL FOR ELDERLY OR PERMANENTLY AND TOTALLY DISABLED PERSONS), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article L, Chapter 2, Title 3 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

ARTICLE L
<u>Real Estate Tax Relief</u>

<u>Sec. 3-2-160 Short title.</u>

<u>This article shall be known as the City of Alexandria Real Estate Tax Relief Ordinance.</u>

<u>Division 1</u>
Real Estate Tax Exemption or Deferral
For Elderly or Permanently and
Totally Disabled Persons

Sec. 3-2-161 Definitions.

The following words and phrases shall, for the purposes of this ~~article~~ <u>division</u>, have the following respective meanings, except where the context clearly indicates a different meaning:

(1) Applicant. Any <u>natural</u> person who claims an exemption or deferral under section 3-2-165.

(2) ~~City council. The council of the City of Alexandria, Virginia.~~ <u>Reserved.</u>

(3) Deferral. A deferral of the obligation to pay real estate taxes granted pursuant to the provisions of this ~~article~~ <u>division</u>.

(4) Dwelling. The building, or portion of a building, which is owned, at least in part, by an applicant, which is the sole residence of the applicant and which is a part of the real estate for which an exemption from or deferral of taxes is sought pursuant to this ~~article~~ <u>division</u>.

(5) Exemption. An exemption from the obligation to pay real estate taxes granted pursuant to the provisions of this ~~article~~ division.

(6) Net combined financial worth of applicant. The value of all assets of an applicant, of an applicant's spouse and of any other person who is an owner of and resides in the applicant's dwelling, calculated as of December 31 of the calendar year immediately preceding the taxable year; provided, that the value of the applicant's dwelling, of household furnishings in the dwelling and of up to one acre of the land on which the dwelling is situated shall be excluded.

(7) Permanently and totally disabled persons. An applicant certified as provided by section 3-2-165(d) and found by the city manager to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such applicant's life.

(8) Relative. Any person related by blood or marriage to an applicant who uses the applicant's dwelling as his or her principal residence, other than a spouse.

(9) ~~Taxes on the average residential property. An amount equal to the product of (i) the real estate tax rate for the taxable year, as set forth in section 3-2-181, multiplied by (ii) the average assessment for the taxable year of properties reported by the city manager, pursuant to section 3-2-235, as single-family detached, single-family semi-detached, single-family-row, condominium garden, condominium high-rise, condominium townhouse, and residential cooperative.~~ Taxes owed for the year. The amount of real estate taxes levied on the dwelling of the applicant for the taxable year.

(10) Taxable year. The current calendar year for which an exemption or deferral is claimed.

(11) Spouse. The husband or wife of any applicant who resides in the applicant's dwelling.

(12) Total combined income of applicant. The annual gross income from all sources, calculated as of December 31 of the calendar year immediately preceding the taxable year, of the applicant, of the applicant's spouse, of any relative of the applicant who resides in the dwelling, and of any other person who is an owner of and resides in the applicant's dwelling; provided, that up to ~~$6,500~~ $8,500 of the income of any such relative shall be excluded and, provided further, that up to $7,500 of the income of any applicant, and any other owner residing in the dwelling, who is permanently disabled shall be excluded.

Sec. 3-2-162 Exemption or deferral--provided.

There is hereby provided to any natural person who is 65 years of age or older or who is permanently and totally disabled, or is both, at such person's election, an exemption from or deferral of taxation on the real estate in the city which is owned, in whole or in part, and is occupied by such person as his or her sole dwelling. There is also hereby provided to any person who is less than 65 years of age and is not disabled, at the election of such person and his or her spouse, an exemption from or deferral of taxation on the real estate in the city which such person owns jointly with his or her spouse and which they occupy as their sole dwelling, provided the spouse is 65 years of age or older or is permanently and totally disabled. The real estate tax exemption or deferral provided for in this section shall be subject to the restrictions, limitations and conditions prescribed by this ~~article~~ division and sections 58.1-3210 through 58.1-3218 of the Code of Virginia (1950), as amended.

Sec. 3-2-163 Same--eligibility, restrictions generally.

Exemptions from or deferral of real estate taxation in any taxable year shall be granted subject to the following restrictions and conditions:

(1) The total combined income for the calendar year immediately preceding the taxable year of an applicant ~~for an exemption~~ may not exceed ~~$35,000. Such income of an applicant for a deferral may not exceed $62,000~~ the limits established by section 3-2-166.

(2) The net combined financial worth of an applicant may not exceed ~~$195,000~~ $240,000.

(3) As of January 1 of the taxable year, the applicant must occupy the real estate for which the exemption or deferral is sought as his or her sole residence and must be expected to so occupy the real estate throughout the year; provided, that an applicant who is residing in a hospital, nursing home, convalescent home or other facility for physical or mental care shall be deemed to meet this condition so long as the real estate is not being used by or leased to another for consideration.

(4) An applicant shall file the affidavit or written statement, or annual certification, required by section 3-2-165 no later than April ~~10~~ 15 of the taxable year.

(5) Interest on any taxes deferred under this article division shall accrue at the rate of five percent per annum from the date by which such taxes were required to be paid to the date on which such taxes are paid in full. Any and all deferred taxes shall constitute a single lien upon the applicant's real estate as if no deferral had been granted and the taxes had been assessed but not paid. To the extent it exceeds, in the aggregate, 10 percent of the price for which such real estate is sold or, if not sold, 10 percent of its assessed value, any such lien shall be inferior to all other liens.

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Sec. 3-2-164 Same--administration by city manager.

The exemption from or deferral of payment of real estate taxes for elderly or permanently and totally disabled persons shall be administered by the city manager according to the provisions of this ~~article~~ division. The city manager is hereby authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations in conformance with the provisions of this ~~article~~ division, including the requirement of answers under oath, as may be reasonably necessary to determine eligibility for exemption or deferral. The city manager may require the production of certified tax returns and appraisal reports to establish total combined income or net combined financial worth.

Sec. 3-2-165 Same--procedure for claim.

(a) For taxable year ~~2000~~ 2003, and every third taxable year thereafter, and not later than April ~~10~~ 15 of the taxable year, any applicant claiming an exemption or deferral of real estate taxes under this ~~article~~ division shall file with the city manager, in such manner as the manager shall prescribe and on forms to be supplied by the city, an affidavit or written statement providing the following:

(1) the name and age of the applicant;

(2) a statement whether the applicant is permanently and totally disabled;

(3) the address of the real estate for which the exemption or deferral is claimed;

(4) the names of the applicant's spouse and of the relatives of the applicant and any other owners of the real estate who reside in the applicant's dwelling;

(5) the total combined income of the applicant as defined in section 3-2-161(12);

(6) the net combined financial worth of the applicant as defined in section 3-2-161(6);

(7) the applicant's election of an exemption or deferral; ~~and~~

(8) the name and addresses of all owners of the real estate other than the owners who reside therein; and

(9) such additional information as the city manager reasonably determines to be necessary to determine eligibility for exemption or deferral of real estate taxes pursuant to this division.

(b) If, after audit and investigation, the city manager determines that the applicant is eligible for an exemption or deferral, the manager shall so certify to the director, who shall deduct the amount of the exemption from the applicant's real estate tax liability or defer such tax liability as herein provided.

(c) Any provision of this ~~article~~ division to the contrary notwithstanding, the director may declare eligible to apply for an exemption or deferral any person filing the affidavit or written statement required by subsection (a), or the written certification required by subsection (f), after April ~~10~~ 15 but before ~~December~~ November 15 of the taxable year, provided good cause is shown for the failure to file the affidavit, statement or certification on or before April ~~10~~ 15 of the taxable year.

(d) Any applicant under 65 years of age claiming an exemption or deferral on the basis of a permanent and total disability shall attach to the affidavit or written statement required by subsection (a), or the written certification required by subsection (f), a certification by the Social Security Administration or, if the person is not eligible for social security, an affidavit by two medical doctors licensed to practice medicine in the commonwealth to the effect that the person is unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

(e) Any applicant initially claiming an exemption or deferral of real estate taxes under this ~~article~~ division, in a taxable year other than ~~those specifically referred to in subsection (a)~~ 2003, shall file for such taxable year the affidavit or written statement required by subsection (a). Thereafter, such applicant shall file an affidavit or written statement, or a written certification, as required by subsection (a) or (f).

(f) For each taxable year as to which an affidavit or written statement is not required by subsection (a), the applicant shall file with the city manager, not later than April ~~10~~ 15, a written certification, on forms to be supplied by the city, in which the applicant states that the information contained in the applicant's last filed affidavit or written statement has not changed in a manner which affects either the applicant's eligibility for an exemption or deferral under this ~~article~~ division or the amount of the exemption or deferral. In the event that the information in the last filed affidavit or statement has changed in such a manner, the applicant shall file a new affidavit or written statement pursuant to subsection (a).

Sec. 3-2-166 Same--calculation of amount; limitation.

(a) The exemption from or deferral of real estate taxes granted under this ~~article~~ division for any taxable year shall be limited and calculated as follows:

(1) when the total combined income of the applicant does not exceed ~~$12,800~~

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$40,000, the applicant shall be exempt from the taxes owed for the year;

(2) when the total combined income of the applicant exceeds ~~$12,800~~ $40,000 but does not exceed ~~$25,600~~ $50,000, the applicant shall be exempt from 50 percent of the taxes owed for the year, ~~in an amount equal to the taxes on the average residential property, as defined in section 3-2-161(9) (but in no event greater than the taxes owed for the year)~~, and may defer all or part of the amount of such taxes in excess of the amount exempted; and

(3) when the total combined income of the applicant exceeds ~~$25,600~~ $50,000 but does not exceed ~~$30,000~~ $62,000, the applicant shall be exempt from 25 percent of the taxes owed for the year, ~~in an amount equal to 75 percent of the taxes on the average residential property, as defined in section 3-2-161(9) (but in no event greater than the taxes owed for the year)~~, and may defer all or part of the amount of such taxes in excess of the amount exempted~~; and~~

~~(4) when the total combined income of the applicant exceeds $30,000 $35,000 but does not exceed $35,000, the applicant shall be exempt from the taxes owed for the year, in an amount equal to 50 percent of the taxes on the average residential property, as defined in section 3-2-161(9) (but in no event greater than the taxes owed for the year), and may defer all or part of the amount of such taxes in excess of the amount exempted; and~~

~~(5) when the total combined income of the applicant exceeds $35,000 but does not exceed $62,000, the applicant may defer all or part of the taxes owed for the year~~.

(b) Notwithstanding the provisions of subsection (a) above, if the real estate identified in the affidavit or written statement filed under section 3-2-165 is not owned solely by the applicant and his or her spouse, the amount of the tax exemption or deferral shall be ~~either~~ the amount of the taxes on the real estate for the taxable year times the percentage ownership interest in the real estate held by the applicant, or by the applicant and his or her spouse~~, or an amount equal to taxes on the average residential property, as defined in section 3-2-161(9), whichever is less~~.

Sec. 3-2-167 Change in status.

(a) Changes in income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit or written statement, or a written certification, is filed and causing any of the restrictions, limitations or conditions provided in this ~~article~~ division to be exceeded or violated shall nullify any exemption or deferral for the remainder of the then current taxable year and the taxable year immediately following, with the applicant receiving a prorated exemption or deferral for the portion of the taxable year during which the applicant qualified for such exemption or deferral.

(b) The transfer of ownership of the property from a qualifying spouse to a spouse who is less than 65 years of age and not permanently and totally disabled, when such transfer results solely from the death of the qualifying spouse, shall result in a prorated exemption or deferral for the then current taxable year. Such prorated exemption or deferral shall be determined by multiplying the amount of the exemption or deferral granted the qualifying spouse by a fraction in which the number of complete months of the year such property was properly eligible for such exemption or deferral is the numerator and the number 12 is the denominator.

Sec. 3-2-168 Penalty for violation of ~~article~~ division.

Any person wilfully making a false statement in claiming an exemption or deferral of real estate taxes under this ~~article~~ division shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $25 nor more than $500 for each offense.

Secs. 3-2-169 ~~through 3-2-180~~ 3-2-170 reserved.

[The following is all new language.]

Division 2
Residential Real Estate Tax Deferral

Sec. 3-2-171 Definitions.

The following words and phrases shall, for the purposes of this division, have the following respective meanings, except where the context clearly indicates a different meaning:

(1) Applicant. Any natural person who claims a deferral under section 3-2-173.

(2) Base amount of nondeferrable tax. The base amount of nondeferrable tax for each tax year shall equal the real estate tax levied on the dwelling in the first full tax year of ownership by the applicant after December 31, 2001, multiplied by 110 percent in each tax year until the taxable year.

(3) Deferral. A deferral of the obligation to pay real estate taxes granted pursuant to the provisions of this division.

(4) Dependent. A person claimed as a dependent on the federal income tax return filed

by the applicant or the applicant's spouse, as of December 31 of the calendar year immediately preceding the taxable year.

(5) Dwelling. The building, or portion of a building, which is owned, at least in part, by an applicant, which is the sole residence of the applicant and which is a part of the real estate for which a deferral of taxes is sought pursuant to this division.

(6) Spouse. The husband or wife of any applicant who resides in the applicant's dwelling.

(7) Taxes owed for the year. The amount of real estate taxes levied on the dwelling of the applicant for the taxable year.

(8) Taxable year. The current calendar tax year for which a deferral is claimed.

(9) Household income of applicant. The adjusted gross income, as shown on the federal income tax return as of December 31 of the calendar year immediately preceding the taxable year, of the applicant, of the applicant's spouse, of any relative of the applicant who resides in the dwelling, and of any other person who is an owner of and resides in the applicant's dwelling.

Sec. 3-2-172 Deferral– provided.

There is hereby provided to any natural person, at such person's election, deferral of taxation on the real estate in the city which is owned, in whole or in part, and is occupied by such person as his or her sole dwelling. The real estate tax deferral provided for in this section shall be subject to the restrictions, limitations and conditions prescribed by this division and sections 58.1-3219 through 58.1-3219.3 of the Code of Virginia (1950), as amended.

Sec. 3-2-173 Same– eligibility, restrictions generally.

Deferral of real estate taxation in any taxable year shall be granted subject to the following restrictions and conditions:

(1) The household income of the applicant shall not exceed $45,200 for a household of up to two persons, plus an additional $4,000 per dependent for each additional dependent of the applicant or of the applicant's spouse.

(2) As of January 1 of the taxable year, the applicant must occupy the real estate for which the deferral is sought as his or her sole residence and must be expected to so occupy the real estate throughout the year; provided, that an applicant who is residing

in a hospital, nursing home, convalescent home or other facility for physical or mental care shall be deemed to meet this condition so long as the real estate is not being used by or leased to another for consideration.

(3) An applicant shall file the affidavit or written statement, or annual certification, required by section 3-2-175 no later than April 15 of the taxable year.

(4) Interest on any taxes deferred under this article division shall accrue at the rate established pursuant to Section 6621 of the Internal Revenue Code. Any and all deferred taxes and interest shall constitute a single lien upon the applicant's real estate as if no deferral had been granted and the taxes had been assessed but not paid. To the extent it exceeds, in the aggregate, 10 percent of the price for which such real estate is sold or, if not sold, 10 percent of its assessed value, any such lien shall be inferior to all other liens.

(5) The deferral provided under this division shall not apply to real estate which participates in the real estate tax exemption or deferral program for the elderly or permanently and totally disabled provided under division 1 of this article.

(6) The deferral provided under this division shall not apply to any person who is delinquent on any portion of real estate taxes for which deferral is sought.

(7) The accumulated amount of taxes deferred pursuant to this division, together with interest thereon, shall be paid by the applicant upon sale or transfer of the dwelling, or from the estate of the decedent within one year after the death of the applicant; provided, however, that if the dwelling is owned jointly and all such owners applied for and qualified for the deferral provided under this division, the death of one of the joint owners shall not trigger the payment required pursuant to this subsection. Unpaid deferred taxes, together with interest thereon, shall be deemed delinquent 45 days after the payment date established by this subsection, and subject to collection as delinquent taxes.

Sec. 3-2-174 Same--administration by city manager.

The deferral of payment of real estate taxes provided herein for residential real estate shall be administered by the city manager according to the provisions of this division. The city manager is hereby authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations in conformance with the provisions of this division, including the requirement of answers under oath, as may be reasonably necessary to determine eligibility for deferral. The city manager may require the production of tax returns to establish household income and the status of any person claimed as a dependent.

Sec. 3-2-175 Same--procedure for claim.

(a) For taxable year 2003, and every third taxable year thereafter, and not later than April 15 of the taxable year, any applicant claiming a deferral of real estate taxes under this division shall file with the city manager, in such manner as the manager shall prescribe and on forms to be supplied by the city, an affidavit or written statement providing the following:

(1) the name of the applicant;

(2) the address of the real estate for which the deferral is claimed;

(3) the names of all persons who reside in the applicant's dwelling;

(4) the names of all dependents of the applicant and of the applicant's spouse;

(5) the household income of the applicant as defined in section 3-2-171(12);

(6) the name and addresses of all owners of the real estate other than the owners who reside therein;

(7) such additional information as the city manager reasonably determines to be necessary to determine eligibility for exemption or deferral of real estate taxes pursuant to this division.

(b) If, after audit and investigation, the city manager determines that the applicant is eligible for a deferral, the manager shall so certify to the director, who shall defer the applicant's real estate tax liability as herein provided.

(c) Any provision of this division to the contrary notwithstanding, the director may declare eligible to apply for a deferral any person filing the affidavit or written statement required by subsection (a), or the written certification required by subsection (e), after April 15 but before November 15 of the taxable year, provided good cause is shown for the failure to file the affidavit, statement or certification on or before April 15 of the taxable year.

(d) Any applicant initially claiming a deferral of real estate taxes under this division, in a taxable year other than 2003, shall file for such taxable year the affidavit or written statement required by subsection (a). Thereafter, such applicant shall file an affidavit or written statement, or a written certification, as required by subsection (a) or (e).

(e) For each taxable year as to which an affidavit or written statement is not required by subsection (a), the applicant shall file with the city manager, not later than April 15, a written certification, on forms to be supplied by the city, in which the applicant states that the information contained in the applicant's last filed affidavit or written statement has not changed in a manner which affects the applicant's eligibility for a deferral under this division. In the event that the information in the last filed affidavit or statement has changed in such a manner, the applicant shall file a new affidavit or written statement pursuant to subsection (a).

Sec. 3-2-176 Same--calculation of amount; limitation.

(a) The amount of real estate tax deferred under this division shall be limited and calculated by subtracting from the real estate tax for the taxable year the base amount of nondeferrable tax, as determined pursuant to section 3-2-171(2).

(b) Notwithstanding the provisions of subsection (a) above, if the real estate identified in the affidavit or written statement filed under section 3-2-175 is not owned solely by the applicant and his or her spouse, the amount of the deferral shall be the amount calculated pursuant to subsection (a) times the percentage ownership interest in the real estate held by the applicant, or by the applicant and his or her spouse.

Sec. 3-2-177 Change in status.

(a) Changes in household income, ownership of property, dependent status or other factors occurring during the taxable year for which an affidavit or written statement, or a written certification, is filed and causing any of the restrictions, limitations or conditions provided in this division to be exceeded or violated shall nullify any deferral for the remainder of the then current taxable year and the taxable year immediately following, with the applicant receiving a prorated deferral for the portion of the taxable year during which the applicant qualified for such deferral.

(b) Any real estate tax, attributable to an increase in the value of the dwelling greater than five percent over the value in the prior taxable year, which occurs by reason of the renovation of, or addition or improvement to, the dwelling, shall be included in the base amount of nondeferrable tax in the subsequent taxable year.

Sec. 3-2-178 Penalty for violation of division.

Any person wilfully making a false statement in claiming a deferral of real estate taxes under this division shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$500 for each offense.

Sec. 3-2-179 Sunset date.

No deferral of taxation on real estate tax pursuant to section 3-2-172 shall be permitted in any taxable year which commences after December 31, 2004.

Division 3
Small Business Real Estate Tax Deferral

Sec. 3-2-180.1 Definitions.

The following words and phrases shall, for the purposes of this division, have the following respective meanings, except where the context clearly indicates a different meaning:

(1) Applicant. Any natural person who, or legal entity which, claims a deferral under section 3-2-180.3.

(2) Base amount of nondeferrable tax. The base amount of nondeferrable tax for each tax year shall equal the real estate tax levied on the property in the first full tax year of ownership by the applicant after December 31, 2001, multiplied by 110 percent in each tax year until the taxable year.

(3) Deferral. A deferral of the obligation to pay real estate taxes granted pursuant to the provisions of this division.

(4) Gross receipts. The gross receipts reported by the applicant to the city as of December 31 of the calendar year immediately preceding the taxable year, pursuant to chapter 1, title 9 of this code.

(5) Legal entity. A corporation, partnership or limited liability company.

(6) Property. (a) For an applicant who is a natural person, the building, or portion of a building, which is owned, at least in part, by the applicant, and which is used for the actual conduct of a trade, business or profession in which the applicant directly and materially participates as proprietor, officer, director, partner or principal, and which is a part of the real estate for which a deferral of taxes is sought pursuant to this division. (b) For an applicant which is a legal entity, the building, or portion of a building, which is owned, at least in part, by the applicant and which is used for the actual conduct of a trade, business or profession by the applicant, and which is a part of the real estate for which a deferral of taxes is sought pursuant to this division.

(7) Taxes owed for the year. The amount of real estate taxes levied on the property of the applicant for the taxable year.

(8) Taxable year. The current tax year for which a deferral is claimed.

Sec. 3-2-180.2 Deferral– provided.

There is hereby provided to any natural person or legal entity, at such person's or entity's election, deferral of taxation on the real estate in the city which is owned, in whole or in part, and is used by such person or entity as the situs of a trade, business or profession. The real estate tax deferral provided for in this section shall be subject to the restrictions, limitations and conditions prescribed by this division and sections 58.1-3219 through 58.1-3219.3 of the Code of Virginia (1950), as amended.

Sec. 3-2-180.3 Same– eligibility, restrictions generally.

Deferral of real estate taxation in any taxable year shall be granted subject to the following restrictions and conditions:

(1) The gross receipts of the trade, business or profession conducted at the property shall not exceed $100,000.

(2) As of January 1 of the taxable year, the applicant must conduct a trade, business or profession at the property as the applicant's sole place of business and must be expected to so occupy the property throughout the year. In the event the property from which the trade, business or profession is conducted is comprised of more than one tax map parcel, all such parcels shall be contiguous.

(3) The assessed value of all the real estate from which the trade, business or profession is conducted shall not exceed $499,900.

(4) An applicant shall file the affidavit or written statement, or annual certification, required by section 3-2-180.5 no later than April 15 of the taxable year.

(5) Interest on any taxes deferred under this article division shall accrue at the rate established pursuant to Section 6621 of the Internal Revenue Code. Any and all deferred taxes and interest shall constitute a single lien upon the applicant's real estate as if no deferral had been granted and the taxes had been assessed but not paid. To the extent it exceeds, in the aggregate, 10 percent of the price for which such real estate is sold or, if not sold, 10 percent of its assessed value, any such lien shall be inferior to all other liens.

(6) The deferral provided under this division shall not apply to any person who, or legal entity which, is delinquent on any portion of real estate taxes for which deferral is sought.

(7) The deferral provided under this division shall not apply to real estate assessed on the basis of use value pursuant to division 2, article m, title 2 of this code.

(8) The accumulated amount of taxes deferred pursuant to this division, together with interest thereon, shall be paid by the applicant upon sale or transfer of the property,

or from the estate of the decedent within one year after the death of an applicant who a natural person; provided, however, that if the property is owned jointly by natural persons and all such owners applied for and qualified for the deferral provided under this division, the death of one of the joint owners shall not trigger the payment required pursuant to this subsection. Notwithstanding the foregoing provisions, the annual amount of taxes deferred pursuant to this division, together with interest thereon, shall be paid by an applicant which is a legal entity within 10 years of deferral. Unpaid deferred taxes, together with interest thereon, shall be deemed delinquent 45 days after the payment date established by this subsection, and subject to collection as delinquent taxes.

Sec. 3-2-180.4 Same--administration by city manager.

The deferral of payment of real estate taxes provided herein for residential real estate shall be administered by the city manager according to the provisions of this division. The city manager is hereby authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations in conformance with the provisions of this division, including the requirement of answers under oath, as may be reasonably necessary to determine eligibility for deferral. The city manager may require the production of business licenses and tax returns to establish eligibility.

Sec. 3-2-180.5 Same--procedure for claim.

(a) For taxable year 2003, and every third taxable year thereafter, and not later than April 15 of the taxable year, any applicant claiming a deferral of real estate taxes under this division shall file with the city manager, in such manner as the manager shall prescribe and on forms to be supplied by the city, an affidavit or written statement providing the following:

(1) the name and address of the applicant;

(2) the name and description of the trade, business or occupation conducted on the property;

(3) the applicant's relationship to the trade, business or profession conducted on the property;

(4) the gross receipts of the trade, business or profession conducted on the property;

(5) the address and tax map parcel number of all of the real estate from which the trade, business or profession is conducted;

(6) the name and addresses of all owners of the real estate;

(7) such additional information as the city manager reasonably determines to be necessary to determine eligibility for exemption or deferral of real estate taxes pursuant to this division.

(b) If, after audit and investigation, the city manager determines that the applicant is eligible for a deferral, the manager shall so certify to the director, who shall defer the applicant's real estate tax liability as herein provided.

(c) Any provision of this division to the contrary notwithstanding, the director may declare eligible to apply for a deferral any person filing the affidavit or written statement required by subsection (a), or the written certification required by subsection (e), after April 15 but before November 15 of the taxable year, provided good cause is shown for the failure to file the affidavit, statement or certification on or before April 15 of the taxable year.

(d) Any applicant initially claiming a deferral of real estate taxes under this division, in a taxable year other than 2003, shall file for such taxable year the affidavit or written statement required by subsection (a). Thereafter, such applicant shall file an affidavit or written statement, or a written certification, as required by subsection (a) or (e).

(e) For each taxable year as to which an affidavit or written statement is not required by subsection (a), the applicant shall file with the city manager, not later than April 15, a written certification, on forms to be supplied by the city, in which the applicant states that the information contained in the applicant's last filed affidavit or written statement has not changed in a manner which affects the applicant's eligibility for a deferral under this division. In the event that the information in the last filed affidavit or statement has changed in such a manner, the applicant shall file a new affidavit or written statement pursuant to subsection (a).

Sec. 3-2-180.6 Same--calculation of amount; limitation.

(a) The amount of real estate tax deferred under this division shall be limited and calculated by subtracting from the real estate tax for the taxable year the base amount of nondeferrable tax, as determined pursuant to section 3-2-180.1(2).

(b) Notwithstanding the provisions of subsection (a) above, if the real estate identified in the affidavit or written statement filed under section 3-2-180.5 is not owned solely by the applicant, or if the applicant is a natural person by the applicant and his or her

spouse, the amount of the deferral shall be the amount calculated pursuant to subsection (a) times the percentage ownership interest in the real estate held by the applicant, or if the applicant is a natural person by the applicant and his or her spouse.

Sec. 3-2-180.7 Change in status.

(a) Changes in gross receipts, assessed value, ownership of property or other factors occurring during the taxable year for which an affidavit or written statement, or a written certification, is filed and causing any of the restrictions, limitations or conditions provided in this division to be exceeded or violated shall nullify any deferral for the remainder of the then current taxable year and the taxable year immediately following, with the applicant receiving a prorated deferral for the portion of the taxable year during which the applicant qualified for such deferral.

(b) Any real estate tax, attributable to an increase in the value of the property greater than five percent over the value in the prior taxable year, which occurs by reason of the renovation of, or addition or improvement to, the property, shall be included in the base amount of nondeferrable tax in the subsequent taxable year.

Sec. 3-2-180.8 Penalty for violation of division.

Any natural person or legal entity willfully making a false statement in claiming a deferral of real estate taxes under this division shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $25 nor more than $500 for each offense.

Sec. 3-2-180.9 Sunset date.

No deferral of taxation on real estate tax pursuant to section 3-2-180.2 shall be permitted in any taxable year which commences after December 31, 2004.

Section 2. That this ordinance shall become effective December 31, 2001, and shall apply to the exemption or deferral of real estate taxes levied in calendar year 2003, and subsequent years.

KERRY J. DONLEY
Mayor

Introduction: 2/11/03
First Reading: 2/11/03
Publication:
Public Hearing:
Second Reading:
Final Passage:

A:\CCTAXRF.WPD

22
4-8-03

- CITY SEAL -

Public Hearing will be held by the City Council of the City of Alexandria, Virginia, in the Council Chamber, City Hall, City of Alexandria, Virginia, on Tuesday, April 22, 2003, at 7:30 p.m., or as soon thereafter as may be heard on the hereinafter described ordinances.

TITLE OF ORDINANCE

AN ORDINANCE to amend and reordain Article L (REAL ESTATE TAX EXEMPTION OR DEFERRAL FOR ELDERLY OR PERMANENTLY AND TOTALLY DISABLED PERSONS), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

First, the substitute ordinance, known as the City of Alexandria Real Estate Tax Relief Ordinance, would adjust the income and net worth limits for the exemption from, or deferral of, real estate taxes for elderly or disabled taxpayers, by raising the existing limits for tax relief. Such taxpayers who have an income up to $40,000 would be exempt from all real estate tax on their house. Those with an income between $40,001 and $50,000 would be exempt from 50% of the tax on their house, and may defer the 50% balance, and those with an income between $50,001 and $62,000 would be exempt from 25% of the tax on their house, and may defer the 75% balance. Deferred amounts accrue interest, and other terms and conditions for relief apply.

Second, the substitute ordinance would establish a new residential real estate tax deferral program for owner/occupants with limited incomes, but who are not elderly or disabled. Under this program, a taxpayer with a household income up to $45,200 would be permitted to defer that portion of his or her actual 2003 real estate tax bill which exceeds 110% of the taxpayer's 2002 tax bill. In subsequent tax years, the taxpayer can defer the amount which exceeds 110% of the amount required to be paid and not subject to deferral in the previous year. Thus, the net effect is to cap the amount of the bill which must be paid, and cannot be deferred, at 10% over the amount from the immediately prior year. Deferred amounts accrue interest. Again, other terms and conditions for this tax relief apply.

Finally, the substitute ordinance would establish a new real estate tax deferral program for small businesses which own their business property. Under this program, the property for which tax deferral is sought must be the taxpayer's sole place of business. In addition, the gross receipts of the business for the prior year cannot exceed $100,000, and the assessed value of the property used for the business cannot exceed $499,900. A small business would be permitted to defer that portion of its actual 2003 real estate tax bill which exceeds 110% of the taxpayer's 2002 tax bill. In

subsequent tax years, the taxpayer can defer the amount which exceeds 110% of the amount required to be paid and not subject to deferral in the previous year. Thus, the net effect is to cap the amount of the bill which must be paid, and cannot be deferred, at 10% over the amount from the immediately prior year. Deferred amounts accrue interest. As with the residential program, other terms and conditions for this tax relief apply.
The limits described above, and the terms and conditions of each program, are subject to amendment by the City Council, to the extent permitted by Virginia law, during the process for adopting this ordinance.

* * * * *

THE PUBLIC IS ADVISED THAT AMENDMENTS OR ADDITIONS MAY BE MADE TO PROPOSED ORDINANCES WITHOUT FURTHER PUBLICATION. IT IS RECOMMENDED THAT PERSONS INTERESTED IN THIS ORDINANCE OBTAIN A FREE FULL-TEXT COPY FROM THE CITY CLERK AT CITY HALL. BEVERLY I. JETT, CMC, CITY CLERK

To be published in the:

Northern Virginia Journal on Thursday, April 10, 2003
Alexandria Gazette Packet on Thursday, April 10, 2003

EXHIBIT NO. 4

22
4-8-03

Draft Verbatim Transcript
City Council of Alexandria, Virginia
April 8, 2003 – Regular Meeting
Docket Item No. 22

* * * * *

22. Consideration of the adoption of an amendment in the nature of a substitute, to the Ordinance to amend the provisions of Title 3, Chapter 2 of the City Code, relating to real estate tax relief, as passed on first reading on February 11, 2003 (Docket Item No. 15).

Mayor: Okay, we have this item before us. We asked staff to come up with a couple of different options. This didn't get a thorough discussion. They have come back and given us a couple of options that are built into the ordinance. One is an expansion of the tax relief for elderly and disabled which basically mimics, not mimics, but fairly well mirrors the Arlington and Fairfax models which would create a situation where we are consistent with our neighboring jurisdictions. In addition, they have also, at Council's request, put together a residential real estate tax deferral possibility. They're not recommending that we adopt it because of the administrative costs and really don't have any idea on which to base how it might be utilized so there is a fair amount of uncertainty to it. They've also developed a small business real estate tax deferral program, again, at Council's request. They're not recommending this particular option as well. Largely because, particularly on the commercial side, the rate of appreciation was not that great, and so, consequently they are recommending the option 1 which is the inclusion of the tax relief program for the elderly and disabled as expanded to mirror the Fairfax/Arlington models. This would add costs, at least, with this option, the staff recommended option, an addition $200,000 in addition to what the Manager has set aside in the proposed FY 04 budget for tax relief for the elderly and disabled. So, there we have it. It's before us tonight. We probably need to decide, you know, what options we are going to include in this because we need to move this along because it does have, number one, budget implications, but there are also some adoption things that we have to take care of in anticipation of the commencement of the fiscal year on July 1.

Pepper: Mr. Mayor. It was not quite clear to me how this worked. I thought we had adopted a, in February, at least the portion that applied to the seniors on First Reading.

Jinks: It was First Reading.

Pessoa: That was on First Reading you adopted what is now Division I in its prior status what the staff recommended of the initial staff recommended limits. What you have before you tonight is the revised limits that came out of the discussion at the First Reading.

Pepper: Now, I get it. Let me just mention, if I may just finish, I thought at least that portion was really, really quite appropriate. It does keep us in line as you pointed out with other jurisdictions and it's certainly, it's not more than generous. It's just going to be very, very helpful and it's not, I don't think it overdoes anything. It's just about the right amount. So, I hope that that portion at least will go forward, and the rest I'd like to hear debate on.

Mayor: Well, you know, I'd be happy to kick it off. I'm in favor of the staff recommendation which is inclusion of Option I, the expanded program. I mean that's essentially what I asked for when it originally came before us. It keeps us consistent with Arlington and Fairfax. It seems to me that with the other two options there is a tremendous amount of uncertainty, a lot of administrative cost, and I think the more we potentially dabble in this, the harder it's going to be in future years, for us to effectively forecast our revenues, because we're not going to be able to determine who's in and who's out. It's going to be extremely complicated from an administrative point of view. And, quite frankly, I think our major obligation right now, I think is to the elderly and the disabled in our community who need tax relief. Now, that's not to say that the balance of the community doesn't need tax relief as well, but I think that, you know, the best way for us to provide that kind of tax relief is not dickering around and creating a new program, it's to continue the rate reduction which is going to benefit all taxpayers. You know, the lower we can take the rate down. So, at any rate, those are my feelings on this. So, I'm supportive of the staff recommendation. Ms. Eberwein.

Eberwein: Just to get a motion on the floor. I'd like to move the City Manager's recommended program.

Mayor: Motion by Ms. Eberwein to approve the City Manager's recommendation on the program, the tax relief program.

Speck: Second.

Mayor: It's been seconded by Mr. Speck. Further discussion.

Woodson: Yes.

Mayor: Ms. Woodson, then Mr. Cleveland.

Woodson: Thank you. I don't disagree with you on the first item. I think we agreed on that in February, so I don't see there would be any room for us to back down on that.

But, I do question and perhaps disagree is too harsh a statement, but I do question your portion as well as staff's report which I think is extraordinarily risk adverse, particularly at a time when we're realizing an extreme increase in real estate assessments. It was a good discussion in the staff report. It was a very good discussion, and it was a good presentation, but then it seemed to begin to retreat as opposed to considering how we could provide for, quite frankly, a fairly small portion of our population with an income beginning at $45,000, and that was simply a recommended income. It could be any number of incomes that we'd like to consider, but they retreated from that and, you know, I guess I'm disappointed at that retreat. It's as though they took us so far and thought, you know what, I don't want to be bothered. It's as you said, it's yet another program, and that disturbed me. So, I did a little research and I actually have some information that I'd like to provide to staff, as well as to my colleagues on this very same kind of thing that's being done in other areas. And, I'd also like to question whether or not staff considered what's being done in other hot real estate markets to deal with the kind of oppressive tax assessments that people of limited means are experiencing. It's one thing to, you know, reduce the rate and say that that benefits everyone, but unless you're reducing it to the point where they're only realizing a 5 or 10 percent increase, in the absence of having that type of an increase in overall ability to pay, it's oppressive to those who are poor, and happen to own houses in the City of Alexandria. And, I think it is incumbent upon us to look at ways that we can address that issue. And, it seems kind of interesting to me that in our discussions over the three years that I've been here, we often bemoan the fact that we are hamstrung by the General Assembly to do anything without their permission, and here we have enabling legislation and we retreat from it without giving it a fair consideration. So, let me suggest that Loudoun, I have been able to find has a deferral program for the retention of property as open space. They have managed to figure out someway to make that work. Bridgeport, Connecticut has an example of a deferral for improvement to properties in an enterprise zone. They figured out someway to make that work. Florida has a similar kind of program. Again, those are just three that through research I was able to discover. I don't know if it's terribly difficult for staff to have found these same kind of opportunities for comparison. The fact that it's not happening in Virginia doesn't mean that it doesn't need to happen, and the fact that in my fair housing presentation, I was able to champion what Alexandria has done as a leader not only in the state of Virginia, but, quite frankly, in the country for fair housing laws that we have enacted. It seems that it's only fair and reasonable that we should champion this same kind of approach. So, altogether I think we have a short shrift in the retreat from this program. I think it, because I have been able to uncover these programs that are somehow working someplace else, perhaps, there are yet ways that we could create a program that could work here as well. I also think that if we're able to do that, one, we don't have an awful lot of people who are going to fall within that income range anyway; two, we're not giving the money away. It is coming back to us. So, I think we're looking at an extreme example of risk adversion here, and it disappoints me because we're in a position to do something and we're walking away from it. So, I'd like to amend this motion that's been put on the floor to include for further discussion and analysis purposes until such time as we've had the public hearing and the citizens have had an opportunity to weigh in on it should they want to, because I think it's valid, I think it has potential, and we clearly have enabling legislation from a state that doesn't give it often. It would be ironic if we dropped the ball here.

Mayor: We have a motion to amend

Cleveland: Second.

Mayor: It's been seconded by Mr. Cleveland. Now, let me get an idea what specifically, the motion to amend is to continue study or is to include this in the ordinance?

Cleveland: I like Loudoun County's.

Mayor: Hold on, I'm asking the maker of the motion.

Woodson: I, pardon me, because we are going to only receive this for public hearing, it can come out as I understand it, if over the next two weeks, we find that there is absolutely no way that Connecticut and Florida and Loudoun County programs could work here. You know, if we discover this, when then obviously, perhaps that's coming out.

Mayor: Well, no. Just a simple question. I understand. You said further study, but you also said inclusion. I just wanted a clarification.

Woodson: I want it included, but between now and then, we have the opportunity for staff to do further study, and as well for my colleagues to read the information that I have so that you are more educated about the potential for use here.

Mayor: I think we understand. Okay.

Pepper: Mr. Mayor.

Cleveland: Mr. Mayor.

Mayor: Mr. Cleveland, then Mr. Euille.

Cleveland: Mr. Mayor, that's the reason why I seconded my colleagues suggestion because I truly liked Loudoun County's suggestion and that was what I was going to bring up, so, that's why I seconded the motion.

Speck: Mr. Mayor.

Mayor: Mr. Euille and then Ms. Pepper.

Euille: Yes, question for my colleague, Ms. Woodson. Your request or your motion to amend. Does that pertain to both residential real estate tax deferral and the business or just the residential?

Woodson: Well, I don't really understand why the business was taken out any way because within the body of the discussion, they say, well, there's really not much in the way of assessed value problems anyway, so why bother to have this as an option. So, that didn't really make much sense to me. The fact that we don't have a need for it today, doesn't mean we don't have a need for it tomorrow. We clearly have problems with small businesses' retention here in the City. All we need to have is an increase in commercial real estate value for it to become an issue. Now, could it come back? Of course, it could come back.

Euille: Thank you. The suggestion I was going to make and I sympathize with the maker of the amendment to include options 2 and 3 along with the option 1 for tax relief for elderly and disabled, but I want to offer as a suggestion because we haven't had a reflection on this from our Budget and Fiscal Affairs Advisory Committee. They have a meeting, we have a work session on the 21st of this month, is that correct? Is there an opportunity to ask BFAAC to weigh in that or have they even considered these suggestions at all as part of their work?

Jinks: They are aware of this, but they've not officially considered it.

Euille: Can we ask them to do that for us and to report back to us at the work session, the joint work session we're having on the 21st and then we'll have additional information besides the public hearing that will take place before, you know, we discount options 2 and 3 altogether.

Jinks: We can ask them to do that. In fact, they're meeting, hopefully, they're still there and we can get this information upstairs.

Pepper: Please run over.

Euille: We can e-mail it to them. All right, thank you. It's going to be my suggestion.

Mayor: Ms. Pepper, then Ms. Eberwein.

Pepper: I'm sympathetic to the issue, but I guess what I was hearing was that at least the cost of administrating it could be the same benefit that the small businesses might receive and that concerned me. And, the other thing was that it sounded to me like staff was going to have one dickens of a time getting the information out to be helpful for this year. I don't know how you would do that. But, in any event, what I was wondering how people would feel about having this as a retreat item whereby you would be able to get everybody, we'd get much more input, and a broader understanding of what it is that's being offered here.

Mayor: Well, I think if you hold it as a retreat item then you're not going to be able to do anything for

Pepper: What I'm saying is that I'm sure that the process it would take to educate people of what was even going to be offered that maybe that would be a good idea to wait.

Mayor: Well, I think I understand the suggestion, but, you know, you're not going to be able, unless you make changes this year now, you're not going to be able to do anything. It'll take you a year before you do anything. So, I think it really becomes a question of, you know, do you want to have the authority to enact something, you know, this year and then it becomes what you enact. I mean staff has made the recommendation regarding the expansion of the elderly and disabled, and one option would be that, you know, we could just hold a public hearing on all of it, and then make a decision one way or another.

Woodson: That's what I'm asking.

Mayor: Ms. Eberwein.

Eberwein: Uh, yeah, I mean I'm not going to vote for the amendment. I'm going to stick to the original motion for the following reasons. I look at the business taxes as something that we want to increase their share of the burden, quick frankly, not in a punitive manner, but by encouraging new business and new activity within our business community so that we that offset the residential real estate tax rate. And, there seems to be some disconnect between realizing that every time we offer some sort of program that allows for helping those who truly are burden by this, at the same time, the money has to come from somewhere, so it eventually ends up affecting the middle class that doesn't quite meet that level. And, there seems to be some disconnect in understanding that there are a lot of folks who are looking at us to cut the rate here. So, as we merrily try to increase the class of people that excepted from the burden of real estate taxes, you know, let's just say that the map is not working here. I think the staff actually made a very good argument for the difficulty of enforcing it with regard to the business community because many of them rent the businesses. And, so, the benefit is going to be to the property owner and not necessarily going to accrue to the businesses at all. Not to mention, the nightmare of trying to figure out how one would actually administer that. And, I've heard examples given today, and quite frankly, I have, I thought the criticisms of staff were rather harsh. I don't think that you're being risk adverse. It seems to me you're being very practicable with the budget that we know, most people that I have talked to have said that property assessments are not going to keep going at a dizzying rate of ascension. That we will probably enter a period where they will stabilize or they will increase incrementally, not at the rate that we have seen; and therefore, I believe the next Council or at least the next Council after the next Council will probably be dealing with some very real budgetary issues where we will not be sitting on the fat cat, so to speak, and we will have to actually look at our budget for potential cuts. So, to say that staff is risk adverse or BFAAC is risk adverse, I think is an unfair criticism. And, the programs that were mentioned, I have to say, not having the documents in front of me or what was referred to was an open space something in Loudoun County, and an enterprise zone in Connecticut. I have no idea what that has to do with real estate tax relief that's on the docket right now. Now, maybe when I look at this material, I will understand that, but it seems like doing an internet search and then asking us to review this material and asking staff to come up with additional research in a time when they are literally trying to respond to our budget memos and trying to respond our requests so that we can pass the budget, is an unreasonable use of their time. I won't be supporting this.

Woodson: Mr. Mayor.

Speck: Mr. Mayor.

Mayor: Actually, Mr. Speck and then Ms. Woodson.

Woodson: Thank you.

Speck: Let me just try to work through a couple of things here because I'm listening to what everyone is saying, and I'm sort of trying to think this through while new information is coming to us. Number one, I want to leave this budget over the next few weeks with at least one part of this that I'm confident it's responsive to what we think the people in this community need. We can measure it. We know what we're doing. And, we have applicability as broadly as we can. That's number one. We had a good staff presentation on this during the work session. I don't think there's any question that we want to find the additional $200,000 to step up the provisions of this program to make it available in something that we already have implemented. We know it works, and we have a pretty good idea of what it's going to cost us.

Mayor: Agreed.

Speck: As far as these other provisions, I mean I don't give the General Assembly any great marks for giving us the authority to defer our own taxes. I mean when we ask for help, we ask for the ability to create new sources of revenue, not to just tell us that they've granted us the authority to relieve ourselves of a tax that we already control.

Mayor: Actually, while I appreciate that comment, I think we also asked them for help, direct help to meet obligations they've already agreed to and, you know, for example, the school, they don't do that either.

Speck: Right, so, yeah, but I mean on this point, it's, you know, the fact that we have the authority to grant tax deferral is something probably that most municipalities ought to think they have under any circumstances. I'm not precisely sure what Joyce was referring to in Loudoun, but I assume it's the homestead provisions that are allowed in other jurisdictions where, and actually we can do that here if we had land that actually met the thresholds which I doubt that it would, and that is where you are encouraging a property owner not to develop their property and, in fact, take it off of the developable rolls and it's higher tax authority in return for agreeing not to build on it. So, but, the point on this deferral thing is it's not a program that we don't understand how it works. There's not an issue here of whether we need to find out if it works or not. We know what it is. We know how it is essentially administered. We know what impact it has from a process standpoint. What we don't know is how much it's going to cost us. And, it's late in the game to be introducing something that could have some substantial impact on our revenues in an area that we some uncertainty as to the applicability. It is a program that I think probably we ought to determine in some way or another whether we can assess its scope and its financial impact, factoring in administrative costs and everything else. But, I think that the timing for this, I think in a sense it is, I'm concerned that we will be floating something that could create some false promise without knowing whether we can afford it and whether we are ready to administer. I think it would be far more appropriate for a new Council to undertake some assessment of this more thoroughly and determine the penetration that this kind of a program might have. It's not a case of not knowing how it works. We know how it works. We know exactly how it works, but we don't we don't know, is what it is going to cost us.

Mayor: Ms. Woodson.

Woodson: Thank you. Thank you, Mr. Mayor. I have to disagree. I think the staff report suggests, not just that we don't know how it's going to work, it's a City that doesn't know how it's going to work. The question was, how was we going to make it work with all of the other institutions that might be involved. Let me also suggest that this was first introduced in February, so there was more than an ample amount of time for staff to bring us something that we could grab our hands around, which they did. This is a very good document. It discusses the proposal very clearly. The first document that came to us confused too many people on Council. Perhaps, it didn't confuse everyone, but I would owe up to being confused by the first document. I'm not supporting the General Assembly. I'm simply stating the obvious. We have an opportunity. We don't often have them. We have people in great need, and it would be a shame to waste it. The business came in in the 11th hour. I didn't bring up the business issue, but I think it's interesting to note that we're talking about real estate, business real estate value of less than $500,000. That's not a whole lot of business real estate. We're not talking about the giant companies that pay that kind of money in taxes. We're talking about small moms and pops with very small businesses and gross receipts of less than a $100,000. These are not the big guys that we want to pay the big bucks to bail everybody out. So, let us not be confused and let us not confuse anybody listening. I think the question is simply how do we make this work with everybody out there. Whether it works for June, or whether it works for November, I don't know, but I think we owe it to the citizens to give it an opportunity to work. From February to now, we are just getting a document that we can review and make some sense out of, or at least that some of us can review and make some sense out of. It seems to me that it's not going to hurt anybody for us to hold it over with the other number one and vote on it following a public hearing on this very issue.

Mayor: Let me get a clarification of the motion to amend. The motion to amend just pertains to item number two on the docketed memorandum or is the motion...

Woodson: My original motion to amend, to amend came with two and three, the original motion was simply to accept one.

Mayor: I know that. I'm asking for a clarification on the motion to amend because when you made the motion I understood it to be just for section number two.

Woodson: Well, because I was just talking about that one.

Mayor: I know, I understand. That's why I'm asking for a clarification, Joyce. I asked for a clarification on the motion to amend. You've given it, so it does include number two. What you'd like to do is at least have these matters for public hearing which is scheduled for the 22nd of April. Okay.

Woodson: That's correct.

Mayor: The motion to amend is to include sections two and three which is the tax deferral program and the small business deferral program to at least include them for a public hearing. I'm going to support the motion to amend because it at least affords us the opportunity to have a public hearing on these items. I will admit publicly right now, I'm not in favor of these and somebody's going to have to work hard to convince me because I don't see the utility in them right now. All right we got a motion to amend, it's been seconded.

Speck: Mr. Mayor, I want to be sure that it's clear what the motion is in part because I want to be sure that the community what we're signaling. The motion was first to approve the recommendation for the expansion of the tax relief program, schedule it for public hearing. Clearly

Mayor: This is an expansion.

Speck: we're signaling that that is something that we want to and intend to do, and then also asking for to include the items two and three in the public hearing and invite the public to comment. Correct?

Mayor: That is the motion to amend. That is correct. Now, let me say that

Woodson: Yeah, I need to talk to that.

Mayor: Hold on, hold on, hold on, one at a time. And, I will say that the first section regarding the elderly and the disabled the recommendations for tax relief there. The Manager recommended some expansions, we expanded it further. Very good. Ms. Woodson.

Speck: Correct.

Woodson: I just want to make certain that we're not just going to talk about it on the 22nd. I mean, we do have the same opportunity to adopt it on the 22nd as we do to adopt one.

Mayor: Yeah.

Woodson: Okay. Because that's not what I was hearing Councilman Speck say. I just want to make certain that's what he is saying.

Speck: That's why I'm asking because there's two things here. One is we're indicating the Council's intent is to expand the tax relief program for the elderly and the disabled beyond the Manager's recommendation.

Mayor: Correct.

Speck: And that the Council is indicating it's intent to want to do that. We do have to have a public hearing. Okay.

Pepper: That's what I needed to know. We will have a public hearing on that.

Speck: Council's not taking a position on whether it wants to do items two and three. It is inviting the public to comment on those. Yes, we could decide to do something, but there's a key distinction here and I want to be sure that we're not setting ourselves up to tell people that we're planning to do something that we don't know that that's something we want to do. We're asking for the public comment about the second and third proposals, but we know for certain that we want implement the first part of the proposal. Correct?

Woodson: Yes, as far as I understand it. We know for certain because I think all seven of us concur this is something that we want to do. It's very clear to me that all seven of us concur that we want to provide the other relief. So, perhaps between now and then, we may.

Mayor: That's correct.

Euille: Call the question.

Pepper: Mr. Mayor.

Eberwein: Mr. Mayor. Is part of the motion that staff has to go back and investigate all of these other programs?

Mayor: It's a question to the maker of the motion.

Woodson: Well, I don't know if there's a whole lot of investigation to do since I've already done it and I will provide that to staff and they can read it. It in the web, it's pretty clear. I don't know that it really matters that the open space in Loudoun County or the enterprise zone in Connecticut is the question, the question is, how do you make it work. Not what's somebody is deferring, but how does the deferral work. Because part of staff's concern was that it would be very complicated, very costly and very confusing to the consumer. So, that's the bigger issue. If we have already done the research, which I have, then I can provide that to staff and it certainly saves staff a good deal of time since they're overworked.

Manager: Mr. Mayor. Of course, this can be done.

Woodson: I would think.

Manager: Of course, it can. Anything can be done. I mean, practically, anything can be done. And so, it gets down.....the programs in Loudoun is the same one we have in Alexandria. We give the Winkler Preserve a break on their assessment because they've committed the land to certain open space features, and that's what Loudoun does. That's addressing the assessment of property and being able to adjust the assessment from what it otherwise would be fair market value. We have that program. We have the ability to have a deferment program. Can it be done? Of course, it can be done. We're telling you that it might be tough. Can we do it? Of course, we can do it. Can we do it well? Of course, we can do it well. It gets down to whether you want to have it. That's all. That's all.

Woodson: I'm glad to hear that because that wasn't what I gleaned from the staff report.

Manager: No, the recommendation is against it for the reasons they are in there. And there's kind of a philosophical question as well.

Woodson: Exactly.

Manager: You know, do you want to begin in a tax program providing, in a tax program that is applicable to everybody who's in a category that is you own property, and granted we have the seniors and the disabled and they're frankly off in a corner. There's specific statutory authority there. Do you want to begin, does government want to begin in a tax area to begin providing some relief for some and not for others when the criterion is income. That's it. That's the question. There's kind of the philosophical question there and then if you say yes, then the question is, okay, where do we draw the line. Do we draw at \$10, \$20, \$30 because you know and I know that wherever you draw it, it's not a reason not to do, wherever you draw it, next year someone's probably going want you to draw it a little differently. And, the pressure is going to be to, you know, if real estate stays warm, the pressure is going to be to keep putting it up and up. And, I think, in the long run, where my concern is that we get to the point, the revenue projection is very important to me, very important. If we keep this at a program that is very low in income, the impact probably is not going to be all that great.

Woodson: That's what I thought.

Manager: If we grow, and then there will be pressure to grow, then we start getting into very significant budget projection issues because as I think as I said the other day, if we have to project the budget and it's one dollar or ten because we don't know how many participate, we will project one because we're not going to come in with a budget that is five on expenditures and one on revenue. So, I guess that's all. I have one other thing. I can't remember what it was, so.

Mayor: We got a motion.

Manager: No, can I say one other thing. The other thing is simply the context in what you're doing tonight remember is giving approval to an ordinance on First, are we back on First Reading or ?

Pessoa: No, we just adopting...we're on no reading, we're just adopting the substitute and setting it for public hearing.

Manager: Well, essentially. So, options one, two and three, I understand what you're saying, you favor one but we're a little questionable on two, for purposes of structure, you're simply giving an okay to go forward with an ordinance and the ordinance will have one, two and three, and in that sense, it's all, it's all the same. Option one will become final when you pass the ordinance, and two and three may not.

Mayor: Well, it depends what's included at final adoption.

Manager: So, the public hearing remember is a few days before the budget adoption and then you will take action on the ordinance, at least the way we have it proposed, is on the night of budget adoption.

Mayor: That's right.

Manager: So, it will have to be resolved in the add/delete process. You'll have the public hearing and you'll have to have an add/delete item in it before, because your add/deletes are due before the public hearing on the 22nd. Okay, so, we'll ultimately decide it through the add/delete process. Okay.

Mayor: That's fine.

Pepper: Mr. Mayor.

Mayor: Ms. Pepper.

Pepper: Since item number one is not totally solved even though there seems to be a consensus here, we still have to vote on it, that will be part of a public hearing item and we need to let people know that. The other thing is what happened to the input that we were talking about from BFAAC? I think that could be helpful. Can we instruct them to make some kind of comment between now and then.

Mayor: Yes, I think if they have the time. I mean, right now, they're embroiled in their analysis, but I think any input we would get from BFAAC would be helpful. If you could convey that to the Committee. You know this is their busiest time of the year and so it is sort late for us to be laying something on the table that might be a little onerous. If again, if they can get back to us with some type of comment, we would appreciate it.

Manager: Sure.

Woodson: Mr. Mayor. May I just ask one question?

Mayor: Sure.

Woodson; Why is it that BFAAC wasn't given this since we started talking about it back in February? I mean wouldn't they have been given this information since it was going to be considered?

Manager: No, BFAAC, other than the specific items that we kind of pull out and give to them, BFAAC's job right now is take a look at the budget and as a whole, and it's not in the budget. BFAAC doesn't look at anything at this time of the year unless other than the budget, unless we pull something out.

Mayor: Unless we specifically ask for it.

Woodson: Unless we specifically ask them like we did with the health care. Okay. Thank you.

Manager: Exactly.

Jinks: They do get all budget memos.

Woodson: I'm sorry.

Jinks: Every budget memo they all get a copy of after it's distributed to Council, so, the budget memos on this subject. They got this item in their package and are aware of.

Mayor: Okay. We have a motion to amend. It's been properly seconded. Is there any further discussion? All right. All those in favor of the motion to amend, say "aye". Those opposed "no" That passes 6-to-1, with Eberwein voting "no". We will now move to the original motion, as amended, all those in favor of the original motion, as amended, will please say "aye"; opposed "no"; that motion passes unanimously. We'll hold this item for public hearing on the 22nd, and as the Manager summarized, final adoption of this ordinance will be on budget adoption night.

We'll have the public hearing between now and then. Hopefully, we'll get some comment from BFAAC. Elements that we want to build into to this obviously are going to have to be part of the add/delete process and I think you know the deadlines on the add/delete process, so you better get those on the list if you want them to be considered. All right, let's move to item 23.

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