


City of Alexandria, Virginia

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10-23-07

MEMORANDUM

DATE: OCTOBER 17, 2007

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: RECEIPT OF PROPOSED CITY LEGISLATIVE PACKAGE FOR THE 2008 GENERAL ASSEMBLY SESSION

ISSUE: Receipt of proposed City Legislative Package for the 2008 General Assembly Session.

RECOMMENDATION: That City Council:

- (1) Receive the proposals for the City's 2008 Legislative Package;
- (2) Schedule the legislative package proposals for public hearing on Monday, November 19; and
- (3) Schedule adoption of the Legislative Package for Tuesday, November 27, following Council's work session with the General Assembly delegation.

DISCUSSION: For the past several months, staff has been working with Council members, City departments, and boards and commissions to develop legislative and funding proposals for the City's 2008 Legislative Package. Thirty-two such proposals are described below for your consideration as 2008 legislative package proposals. Section 1 contains legislative proposals that staff recommends the City seek to have introduced by our delegation; Section 2 contains legislative proposals that staff recommends that the City support; and Section 3 includes proposals that staff recommends that the City oppose. All the proposals are also summarized in the list entitled "City of Alexandria 2008 Legislative Package Proposals" (Attachment 1).

The 2008 General Assembly Session will be a "long" 60-day Session, beginning January 9, and ending March 8. On December 17, 2007, Governor Tim Kaine will submit his proposed biennial budget for FY 2009-2010. Major issues expected to occupy the Session include mental health reform, undocumented/illegal immigrants, and the budget (including revenue shortfalls). There will undoubtedly be legislation introduced to modify last year's transportation package, especially the portion dealing with "abusive" driver fees.

Legislative Director Bernard Caton will represent the City in Richmond again this year, and we will report to you regularly on the status of legislative and budget issues that arise during the 2008 General Assembly Session.

1. Requests for Legislation to Be Proposed

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

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

Current law (Va. Code § 46.2-924) requires drivers to yield, but not stop, at any clearly marked crosswalk where the speed limit does not exceed 35 miles per hour. Many people believe that pedestrian safety would be enhanced if drivers were required to stop for pedestrians at crosswalks. Legislation to require drivers to stop for pedestrians in crosswalks has been pursued unsuccessfully in several recent sessions of the General Assembly. City staff has worked with representatives of the Virginia Department of Transportation (VDOT), other local governments, and non-governmental organizations throughout 2007 to craft legislation for introduction in the 2008 Session.

1.B. Implementing Changes in Election Laws. (Councilman Wilson)

A special election to fill a City Council vacancy was held in Alexandria on July 17, 2007. An issue that came up during this race was the July 1 change of the requirement for including social security numbers on absentee ballot applications (House Bill 1935, 2007, limits the use of social security numbers to the last four digits.). As a result of this change, the application form that was in use when the campaign started was not the same one that was in use when the election took place. Consequently, candidates had to wait until the ballot application form was revised before they could send out blank applications for voters to use if they wanted to apply for an absentee ballot.

Councilman Wilson has suggested that it would be appropriate for special elections that are underway when a July 1 Code change (or for that matter, a Code change effective at any time) becomes effective to proceed under the old election laws. Unfortunately, there is not an easy way to draft legislation to address this. One possible solution is to give the Executive Secretary of the State Board of Elections limited authority to suspend implementation of a change in the law for a special election that is underway (the suspension of the change would apply only to the special election). Staff has sent this proposal to the Executive Secretary for her comments and is awaiting a reply.

1.C. Elimination of the Sales Tax on Compact Fluorescent Light Bulbs. (Councilman Krupicka)

Compact Fluorescent Light Bulbs use about 75 percent less energy than standard incandescent bulbs. In addition, they produce about 75 percent less heat, so their use can cut energy needed for home cooling. Eliminating the sales tax on these bulbs for several years would encourage consumers to purchase them and help develop the market for them. The 2007 General Assembly passed legislation establishing a sales tax holiday for CFLs and other energy efficient products during the four-day period that begins each year on the Friday before the second Monday in October; this legislation sunsets in 2012. Councilman Krupicka believes a better approach to increasing consumer use of these bulbs would be the elimination of sales tax on them. The City requests such an exemption for 5 years to encourage the use of, and develop a market for, these bulbs.

1.D. Exempting from the Freedom of Information Act Trade Secrets Relating to a Franchise (Department of Information Technology Services)

Last year, the City followed the process set out in the Virginia Code to award a franchise for a citywide wireless network.

The State Freedom of Information Act (FOIA) contains a number of instances where records are exempt from public disclosure. One of these states that: "Records relating to the negotiation and award of a specific contract where competition or bargaining is involved and where the release of such records would adversely affect the bargaining position or negotiating strategy of the public body. Such records shall not be withheld after the public body has made a decision to award or not to award the contract." The City used this exemption to withhold the information included in the proposals prior to awarding a franchise, but once the franchise was awarded, we had to disclose this information when requested.

If this action had been a procurement (as opposed to the award of a franchise), the procurement law would have allowed a bidder to identify proprietary information when submitting it, and keep the information from being disclosed even after the franchise was awarded.

City staff recommends that the Freedom of Information Act be amended to allow a franchisee to identify proprietary information that will not be subject to FOIA disclosure.

1.E. Restoration of Wooden Revetment and Erosion Control at Fort Ward (Office of Historic Alexandria)

As Virginia prepares to commemorate the 150th anniversary of the American Civil War, the nation's bloodiest conflict, the Commonwealth's localities has been asked to take appropriate actions as a part of this commemoration.

A series of forts and batteries was built to protect Washington, D.C., during the Civil War. Fort Ward in Alexandria is one of the few that remain. Maintaining and preserving the fort, which is owned by the City of Alexandria, requires constant upkeep. Currently, there is a need to replace the deteriorated revetement (pole support) that lines the interior of the Northwest Bastion of the fort. Also needed are erosion control projects at the Fort's earthworks (protective walls). City staff recommends that the delegation seek \$72,260 in state funds to support these projects.

1.F. ABC permits for government agencies that preserve historic buildings (Office of Historic Alexandria)

Gadsby's Tavern is the site of a number of fundraisers that benefit the Tavern or other City-owned historic properties throughout the year. To minimize costs, City staff purchase alcoholic beverages (beer and wine) for sale at the events. Current ABC laws require staff to get a separate license for each event. In addition to the inconvenience of getting multiple licenses throughout the year, these licenses require the removal of any beverages immediately after the event (they cannot be stored there until the next fundraiser). An annual license can already be issued to a nonprofit corporation operating a performing arts facility, or to a nonprofit corporation or association "chartered by Congress for the preservation of sites, buildings and objects significant in American history and culture (i.e., Wolf Trap). City staff recommends that these licenses also be made available to government agencies or nonprofits whose mission is to preserve historic buildings or sites.

1.G. FOIA Exemption for Museum Gifts and Loans (Office of Historic Alexandria)

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

1.H. Supplementing the Salaries of Public Defenders (Councilman Wilson)

Current Virginia law does not allow localities to supplement the salaries of public defenders (localities can already supplement salaries of commonwealth's attorneys and others). Delegate Moran introduced legislation in 2006 which would have authorized, but not required localities, to supplement these salaries. It passed the House but was defeated in the Senate. Opponents asserted that supplements would not be fair, and would result in unequal justice, since counsel in localities that choose to supplement would receive higher salaries than those in localities that chose not to do so. Councilman Wilson has recommended that the delegation reintroduce this legislation.

2. Legislation to support

2.A. Local income tax (Councilman Krupicka and Mayor Euille)

Local governments depend on local real property taxes for a substantial amount of their revenue. Unfortunately, these taxes are not as reliable a source of a steady revenue stream as some other taxes unavailable to local governments, such as the income tax. Councilman Krupicka and Mayor Euille believe the City should have authority to collect income taxes in lieu of some of the real property tax that it now collects. A 0.50 percent tax on personal income of Alexandria residents would yield approximately as much as a five cent tax on real property. In addition, income taxes do not disproportionately harm those on fixed income or with low incomes as much as property taxes do. While the City is not asking its delegation to introduce legislation in the 2008 Session to give localities the ability to levy a small amount of income tax in lieu of a portion of property taxes now collected, it would recommend support for such a proposal if one is introduced. In addition, the City expects to continue to study this issue and may request that the delegation introduce such legislation at a future General Assembly session.

2.B. Homestead Exemptions (Mayor Euille)

During his 2005 gubernatorial campaign, Governor Tim Kaine proposed an amendment to the Virginia Constitution to authorize localities to give homeowners who live in their homes a homestead exemption of up to 20 percent of the value of their property when determining their property taxes.

The Virginia Municipal League (VML) and the Virginia Association of Counties (VACO) want to ensure that any such legislation would not be detrimental to localities. The two organizations' Finance Committees, which were chaired respectively by Mayor Bill Euille and Arlington Board member Barbara Favola, worked together in 2006 on policies to ensure that any amendment will be acceptable to local governments.

As a result, at its 2006 annual meeting VML adopted the following policies, which the City supports:

- VML supports the current constitutional requirement for fair market valuation of property.
- VML supports efforts to relieve homeowners of excessive tax burdens.
- Any changes to the real estate tax must be "local option" (adopted at the discretion of the local governing body). Local officials must bear the responsibility for providing adequate services, therefore they should be able to control the revenues to do so.
- VML urges the timely adoption of measures that can help to provide local governments with tax flexibility. A constitutional amendment would not help to provide relief until 2009.
- VML supports legislation allowing for the establishment of residential and non-residential as separate classifications of property, for purposes of taxation.

- Changes to taxes should be simple to administer and revenue neutral.

The 2007 General Assembly approved this amendment, but it must be reenacted at the 2008 Session. The City continues to support the proposed amendment as passed in 2007 (SJR 354).

2.C. Smoking in Restaurants (Mayor Euille and City Council)

Legislation to prohibit smoking in restaurants or other buildings frequented by the public was proposed in the three most recent General Assembly Sessions. In 2005, Senator Bill Mims introduced legislation that would have prohibited smoking in most public places (including restaurants) throughout Virginia. The bill was approved in committee but died on the Senate floor. In 2006 and 2007, Senator Brandon Bell (Roanoke County), introduced similar legislation, which was approved by the Senate, but died in the House. Legislation may be reintroduced in the 2008 Session that would ban smoking in restaurants statewide, or enable localities to enact a local ban. While the City would prefer a statewide ban, it requests its legislative delegation to support either type of legislation.

2.D. Payday Lenders.

A payday loan is typically a small loan (often several hundred dollars or less) that is secured by a borrower's post-dated check (usually dated for the borrower's next pay day) to cover the loan's principal and interest. Payday loans involve extremely high interest rates (equivalent to as much as 300 to 400 percent annually). Those who receive payday loans are often people with low incomes who find it difficult to pay such high interest rates. Since payday loans were authorized by the 2002 General Assembly, they have become available at over 800 locations throughout Virginia.

Legislation was considered but defeated introduced in the 2006 and 2007 Sessions to prohibit these loans. Legislation is likely to be introduced in 2008 to either prohibit payday loans or cap the interest on them at 36 percent. The Human Rights Commission has asked that the City recommend that its delegation support such legislation again in the upcoming Session.

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

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

medical directives designating a close friend of the same sex to make necessary medical decisions. Since the law's passage, the City in its legislative packages has sought the law's repeal. The Human Rights Commission has asked that the City recommend that its delegation continue to support the repeal of this legislation.

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

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

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

The City's Human Rights Commission has recommended that the City support any legislation introduced in the 2008 Session that would make it illegal to discriminate in housing based on source of income.

2.G. Pre-K Childhood Education (Councilman Krupicka)

Governor Kaine has proposed a major initiative to make high-quality early childhood (pre-K) education programs available to lower and middle-income Virginia families. He is expected to offer legislation, budget amendments, or both that would make pre-K educational programs available to all 4-year-olds whose families meet the eligibility requirements for free or reduced lunch. Research indicates that children who have such early childhood education are more likely to be ready to learn when they enter kindergarten, giving them a better chance for success throughout their years in school.

It is unclear what the cost to the City for this expansion would be. Staff understands that the Administration is looking for ways to lessen the cost to localities, and will provide this information to Council once it becomes available.

Councilman Krupicka, who was a member of the Governor's *Start Strong Council* that developed this proposal, has recommended that the City support the initiative.

2.H. Making Juvenile & Domestic Relations Court a court of record for termination of parental rights cases

Currently, all termination of parental rights cases are heard in the Juvenile & Domestic Relations

(JDR) Court. If the parent appeals the JDR ruling, the case is heard de novo by the Circuit Court. The de novo appeal usually delays the case by 6 months or so, and results in the City having to prosecute 2 identical trials -- double the expert witness fees, and double the staff time and other costs. Staff has been advised that the Supreme Court expects to have legislation introduced to make the J&DR Court a court of record for termination of parental rights cases, so that the de novo appeal is eliminated. City staff involved in these cases support this proposal.

2.I. Firesafe cigarettes (Fire Department and Northern Virginia Regional Position)

The Virginia Association of Fire Chiefs plan to seek legislation to require cigarettes sold in the Commonwealth to be manufactured with self-extinguishing paper. Twenty-one states already require the use of such paper. The paper snuffs the flame if a lit cigarette is not being smoked, lessening the possibility of the cigarette causing a fire. The legislation will require the paper to conform to standards established by the State of New York and other states, and supported by the industry. The Alexandria Fire Department supports this proposal.

2.J. Base Realignment and Closure Commission (Northern Virginia Regional Position)

Alexandria and other Northern Virginia localities are being significantly impacted by the recommendations of the Base Realignment and Closure Commission. As a result of the 2005 BRAC decisions, 20 Department of Defense (DoD) agencies and commands currently operating in leased office space in the City were directed to realign or close their operations. The City expects to lose approximately 7,370 Department of Defense and related private sector jobs, which equates to about 7.5 percent of all employment in Alexandria. The BRAC decisions are expected to leave 1.5 million square feet, or 8 percent, of the City's existing office stock vacant. Other Northern Virginia localities are also being affected, either by losing jobs and tenants, or by receiving large numbers of new workers without the infrastructure to support them.

In the current biennial budget, the State appropriated \$25 million to assist localities impacted by BRAC. Much of it will go to the City of Virginia Beach to assist it with efforts underway to ensure that operations are not transferred from Oceana Naval Base. Given the large numbers of workers moving from rental space, mainly in Alexandria and Arlington, and the infrastructure improvements needed around military bases that are being expanded (e.g., Fort Belvoir and Quantico), additional state assistance is needed for all affected localities. City staff recommends that the legislative delegation be asked to support additional BRAC funding in the 2008 Session. This is also a Northern Virginia regional position. The funds are needed to assist with infrastructure costs; to support studies needed by localities to prepare for redevelopment and new construction; to help retain military research functions in the region; and to attract new tenants to leased space vacated as a result of BRAC.

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

The Alexandria Commission on Aging regularly asks Council to endorse the legislative platform of the Northern Virginia Aging Network (NVAN). The Commission then testifies in support of

the platform during the General Assembly Session. Council has followed this process since 1997 (authorizing the Commission to support the NVAN platform).

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

- Expanded State efforts to strengthen facility and community-based long-term care systems;
- State funding for a Virginia Housing Trust Fund; and
- State initiatives to address other continuing challenges (e.g., mental health needs; the health of assisted living residents; creation of an adult fatality review team; a prohibition on predatory lending; and the evaluation and assessment of health care providers).

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

2.L. Mental Health Issues (Community Services Board and Northern Virginia Regional Position)

The Virginia Association of Community Services Boards (VACSB) has developed a list of budget priorities to improve mental health, mental retardation, and substance services offered by CSBs throughout the State. These include needs important to Northern Virginia, such as intensive case management for mental health services; new mental retardation waiver slots for clients who are mentally retarded, and annual rate adjustments for these slots; and additional services for children, adolescents and young adults. The Alexandria CSB asks that the City support additional funding for these priorities.

Of greater concern to the CSB and the City, however, is potential legislation to increase and improve mental health services. This legislation will result from an ongoing study of mental health law that was initiated by the Supreme Court, and the various studies undertaken in response to the Virginia Tech shootings. The CSB and the City are supportive of improved mental health services, but they also want assurance that the State will fully and appropriately fund any such improvements. City staff will carefully evaluate all mental health legislative proposals that are introduced in 2008, and communicate through Council to the legislative delegation the City's position on any mental health proposals.

2.M. Providing Services to Previously "Non-Mandated" At-Risk Children (Northern Virginia Regional Position)

Prior to this year, the Comprehensive Services Act (CSA) primarily served children in two categories protected under federal law: special education and foster care. Services to these children are "mandated" and are also "sum-sufficient" – meaning that the children must receive services deemed necessary for their safety and well-being without limit on the cost. Although some federal funds are available for these populations, state and local governments pay for most of the service costs.

Children who are not in special education or foster care but are considered “at-risk” have until recently been considered non-mandated, with limited state funding available for services. Many local governments provide services to this population, although they are not required to do so. In December 2006, Attorney General Robert McDonnell issued an advisory opinion about CSA services for children with mental health conditions. It stated that mental health treatment was not mandated under CSA, *unless* parents believed they had no other option than placing their children in foster care in order to receive mental health services for their children. The 2007 General Assembly reviewed the issues raised by the Attorney General’s opinion, and adopted legislation to increase the population served, with the proviso that the legislation would have to be adopted again in 2008. The legislature said that it first wanted more information about the scope and cost of any expansion of the CSA program.

On March 27, the State issued a directive that eliminated current state policies concerning access to sum-sufficient services, and directed local governments to serve an expanded population of children under the mandatory category of CSA. For many local governments, the match rate for CSA is far higher than it is for CSB-provided mental health services. Alexandria provides about 53 percent of all mandated CSA funding, but only about 10 percent for mandated CSB funding, with the State providing most of the remainder. Proposed guidelines to implement the State directive were released in May for public comment. The overwhelming response to the proposed guidelines was negative, not just from local governments, but from families and advocates. The fiscal impact was a main concern, but there also were concerns expressed about the need to serve children in the existing behavioral health system (with adequate funding), and many other issues.

The Legislative Committee of the Virginia Municipal League has recommended that VML support the provision of mental health services to these previously non-mandated children and their families through the existing publicly-funded mental health, mental retardation, and substance abuse services system. City staff recommends that the City concur with VML’s position.

2.N. Procurement Requirements for Transportation Projects (Northern Virginia Regional Position)

Local governments have relatively small limits on the procurement of architectural and engineering services for transportation projects. Now that localities in the region and the Northern Virginia Transportation Authority (NVTA) will assume responsibility for many local and regional transportation projects, there is a need to raise these limits. NVTA recommends that the maximum amount a locality can commit to an “open-ended” contract for architectural and engineering services for unspecified transportation projects be increased from \$1 million to \$5 million; and the amount that a locality can spend for architectural and engineering services on any individual project under such a contract be increased from \$200,000 to \$1 million. Likewise, the limit on a construction project that can be undertaken by a local government using its own employees should be increased from \$400,000 to \$1 million.

2.O. Illegal Guns (Mayor Euille)

Mayors from over 240 cities around the country have joined in an initiative begun in 2006 and aimed at reducing the possession, use, and trafficking of illegal guns. The mayors will oppose any state or federal legislation that would make it easier to traffic in illegal weapons. They do not intend to question any Second Amendment rights or infringe on the lawful possession of handguns and other weapons; their only interest is in fighting crime. They will support legislative proposals at the state and federal levels to target illegal guns; increase enforcement of existing gun laws; and increase penalties for criminals who possess, use, and traffic in illegal guns.

The City included support for this initiative in its 2007 Legislative Package. Mayor Euille recommends that the City again ask its legislative delegation to support any legislative proposals that target illegal guns in 2008, and to oppose anything that would make it easier to traffic in illegal weapons. Staff will identify any specific legislation in this regard and will bring it to the Council's and the delegation's attention.

2.P. FOIA (Freedom of Information Act) and Emergency Local Government Meetings

Arlington County sought legislation last Session to allow local governing bodies to meet electronically in a declared emergency. In the case of a major natural or man-made disaster (e.g., a hurricane, or pandemic flu), Alexandria City Council may need to meet, but it may be impossible or inadvisable for its members to travel to a public place to meet (e.g., in the case of pandemic flu, public meetings may be discouraged to reduce the likelihood of spreading the virus). The 2007 legislation was not passed, but was referred to the State's Freedom of Information Act (FOIA) Council for further study.

The FOIA Council is expected to support this proposal in 2008. The Virginia Municipal League's Legislative Committee has voted to support the legislation. Northern Virginia localities are also supporting this as a regional position.

2.Q. Funding to Control Nutrients.

The General Assembly in recent years has provided funds to control nutrients and otherwise improve water quality in Virginia's rivers and streams and the Chesapeake Bay. The City has supported these initiatives and appreciates the General Assembly's actions. Since this is a long-term problem and much remains to be done, the City recommends that the General Assembly continue to fund grants for local sewage treatment plants to remove nutrients and otherwise improve water quality. In addition, the City asks its delegation to support the use of state grant funds for wastewater recycling, which will also reduce nutrients.

Legislation to oppose

3.A. DEQ Board Consolidation/Permitting Legislation.

Legislation introduced last Session would have removed the State Air Pollution Board's permitting authority over the Mirant plant and all other facilities throughout the State. For well over a year, the Board has been working diligently and openly, with full public involvement, to develop a comprehensive permit for the Mirant facility. Had this legislation passed in 2007, the Board would no longer have the authority to issue the permit; in fact, the Board would not even exist. Although the legislation was passed in 2007, it included a clause that prevented it from going into effect unless reenacted by the 2008 General Assembly. The City opposes reenactment of the legislation in 2008.

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

Immigration policy and enforcement of federal immigration laws is increasingly becoming an issue in Virginia and other states. Estimates by the Pew Hispanic Center and other researchers place the number of illegal immigrants in the United States in excess of 10 million. While many would characterize these people as integral to the ongoing economic prosperity of the country, others complain that undocumented aliens make use of government resources that should go to citizens and legal immigrants. Dealing with the issue of undocumented aliens is a very complex matter. Legislation passed overwhelmingly by the 2005 General Assembly prohibits state or local governments from giving undocumented aliens any public services, yet even that legislation provided for exceptions that allowed public services to continue for some undocumented aliens, such as children. It is also unlikely that anyone would object to extending benefits to undocumented aliens that would also benefit the public at large (e.g., treatment of communicable diseases).

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

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

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

3.C. Undocumented Students (Human Rights Commission)

Some members of the General Assembly attempted to enact legislation in the 2003 and 2004 Sessions that would have explicitly prohibited any alien who is unlawfully present in the United States from being eligible for in-state tuition at Virginia's colleges and universities. The 2003 legislation passed both the House and Senate with substantial majorities, but was returned to the General Assembly by Governor Warner, who proposed to amend it so that it would not apply to students who:

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

The General Assembly rejected the Governor's amendment, so he vetoed the legislation, noting that his amendment "would have allowed a small but deserving group of students to receive the benefit of in-state tuition." He went on to explain that these students "were brought to this country by their parents through no fault of their own . . . are now - and . . . in all likelihood will continue to be - a part of our communities," and that the amendment was "fully consistent with federal law."

Similar legislation to restrict illegal aliens from enrolling in state colleges and universities has been considered by subsequent Sessions. The Human Rights Commission recommends that the City oppose any legislative proposals in the 2008 Session that would restrict access to higher education by undocumented aliens, unless it includes safeguards such as those proposed by Governor Warner for the 2003 legislation. Staff concurs with the Commission's recommendation.

3.D. Federal funds for Child Care

The State Code includes a provision which requires the Virginia Department of Social Services to identify and obtain the maximum amount of federal funds possible for child day care. Earlier this year, the Department indicated that it may seek to have this language repealed. Although the State currently appears to be doing everything possible to identify and draw down child day care funds, a future administration may not consider this a priority unless it is obliged to do so by the Code. City staff therefore recommends that the City oppose any proposal to repeal §63.2-620 of the State Code, which requires the Department to identify strategies to obtain the maximum

amount of federal funds available for child care services for TANF recipients and families whose incomes are at or below 185 percent of the federal poverty level.

3.E. Alexandria Jail Federal Prisoner Per Diems

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

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

3.F. Marking Water and Sewer Lines on Private Property.

The State Corporation Commission (SCC) is considering a proposal that, if adopted, would require local governments to mark utility lines on private property. Gas line installers now use boring equipment to install some of their lines; the boring technique can result in the gas line going through an existing sewer line. While it is an important public safety issue to ensure that gas does not migrate to sewer or water lines when gas lines are bored (or sewer lines are later repaired), this should not be the local government's responsibility. Localities do not have data on the location of utility lines on private property; they only have information for utility lines on public property, which they are now responsible for marking. Furthermore, the SCC proposal does not provide any reimbursement to the locality for this additional responsibility. While resolution of this issue is necessary to protect public safety, it should be the responsibility of the entity doing the boring. City staff recommends that the City's legislative delegation oppose any legislation seeking to implement the SCC proposal.

3.G. Emissions Trading in Non-Attainment Areas (Vice-Mayor Pepper and Councilman Smedberg)

Federal law allows industries in some cases to address their need to limit the emission of air pollutants by purchasing credits from other industries that have brought their emissions significantly below what they are required to do by law. The Virginia Air Pollution Control Board has adopted regulations that prohibit such emissions trading for nitrous oxide and sulfur dioxide emissions in non-attainment areas, like Northern Virginia, where air quality does not meet the national standards that have been set to protect the public's health.

This no-trading rule has important air quality benefits for Alexandria, and will further limit pollution emitted by older power plants. The City of Alexandria recommends that its delegation oppose any legislative proposals that would allow emissions trading for facilities in non-attainment areas to meet their nitrous oxide and sulfur dioxide permit limits.

ATTACHMENTS:

Attachment 1 – City of Alexandria 2008 Legislative Package Proposals

Attachment 2 – Virginia Association of Community Services Boards (VACSB) Draft State Budget Priorities for 2008

Attachment 3 – 2008 NVAN (Northern Virginia Aging Network) State Legislative Platform

STAFF: Bernard Caton, Legislative Director

Attachment 1

City of Alexandria 2008 Proposed Legislative Package Proposals

1. Requests for Legislation to be proposed

- 1.A. **Requiring Drivers to Stop for Pedestrians at Marked Crosswalks**
(Councilman Krupicka; Northern Virginia Regional Position)
- 1.B. **Implementing Changes in Election Laws** (Councilman Wilson)
- 1.C. **Elimination of the Sales Tax on Compact Fluorescent Light Bulbs**
(Councilman Krupicka)
- 1.D. **Exempting from the Freedom of Information Act trade secrets relating to a franchise** (Department of Information Technology Services)
- 1.E. **Restoration of Wooden Revetment and Erosion Control at Fort Ward**
(Office of Historic Alexandria)
- 1.F. **ABC permits for government agencies that preserve historic buildings**
(Office of Historic Alexandria)
- 1.G. **FOIA Exemption for Museum Gifts and Loans** (Office of Historic Alexandria)
- 1.H. **Supplementing the Salaries of Public Defenders** (Councilman Wilson)

2. Legislation to support

- 2.A. **Local income tax** (Councilman Krupicka and Mayor Euille)
- 2.B. **Homestead Exemptions** (Mayor Euille)
- 2.C. **Smoking in Restaurants** (Mayor Euille and City Council)
- 2.D. **Payday Lenders**
- 2.E. **Affirmation of Marriage Act** (Human Rights Commission)
- 2.F. **Housing Discrimination Based on Source of Income** (Human Rights Commission)
- 2.G. **Pre-K Childhood Education** (Councilman Krupicka)
- 2.H. **Making Juvenile & Domestic Relations Court a court of record for termination of parental rights cases**

- 2.I. **Firesafe cigarettes** (Fire Department and Northern Virginia Regional Position)
- 2.J. **Base Realignment and Closure Commission** (Northern Virginia Regional Position)
- 2.K. **Issues Endorsed by the Alexandria Commission on Aging**
- 2.L. **Mental Health Issues** (Community Services Board and Northern Virginia Regional Position)
- 2.M. **Providing Services to Previously “Non-Mandated” At-Risk Children** (Northern Virginia Regional Position)
- 2.N. **Procurement Requirements for Transportation Projects** (Northern Virginia Regional Position)
- 2.O. **Illegal Guns** (Mayor Euille)
- 2.P. **FOIA (Freedom of Information Act) and Emergency Local Government Meetings**
- 2.Q. **Funding to Control Nutrients**
- 3. **Legislation to oppose**
- 3.A. **DEQ Board Consolidation/Permitting Legislation**
- 3.B. **Restrictions on Services to Immigrants and Related Issues** (Mayor Euille and Human Rights Commission)
- 3.C. **Undocumented Students** (Human Rights Commission)
- 3.D. **Federal funds for Child Care**
- 3.E. **Alexandria Jail Federal Prisoner Per Diems**
- 3.F. **Marking Water and Sewer Lines on Private Property**
- 3.G. **Emissions Trading in Non-Attainment Areas** (Vice-Mayor Pepper and Councilman Smedberg)

Attachment 2

Draft VACSB Budget Priorities for 2008-10

I. Rapid/Urgent Care Triage and Access for Adults and Children Experiencing Crisis or Emergency Needs-Both Years of Biennium and On-Going

Targeted Populations

1. Children and adults who are under an outpatient treatment order (within 24 hours of order)
2. Children and Adults who have been released from an ECO, after a TDO, or after an involuntary inpatient commitment and who need treatment and services
3. Children and adults who, without outpatient treatment, would be at risk of involuntary inpatient treatment

Rapid Stabilization Services (intensive, aggressive, problem solving, immediate overnight needs, short term)

- Counseling/Crisis Counseling/Case Management (including aggressive engagement, monitoring and court reporting when applicable)
- Psychiatry/medication

II. Community Services and Supports that Reduce the Need for Urgent/Crisis Care and Strengthen Community Stability-Both years of Biennium and On-Going

Targeted Populations

Children and adults with serious mental illness/emotional disturbance, severe substance use disorders and/or co-occurring conditions who are at risk of facility placement or incarceration

Community Services for the Prevention of Serious Crises/Incidents:

- Aggressive Engagement Services
- Psychiatry/medication, med monitoring, and disease management
- Continued case management (linkage to supports such as disability entitlements, payee relations, links to medical and dental care, housing)
- Permanent Housing
- Day Treatment/Psycho-social/Job training and placement
- Crisis management supports including in-home crisis stabilization, crisis stabilization units
- Detoxification
- Intensive home-based services
- Peer support services
- Specialized treatment for co-occurring disorders
- Local inpatient purchase of services

Mental Retardation

- 1600 MR Waiver Slots (800 each year of the Biennium)
- Start-up funding for 1600 MR Waiver Slots (800 each year of Biennium)
- Reimbursement rate indexed for inflation (Biennium and On-Going)
- 5M for individuals who are not eligible for the MR Waiver or who are non-Waiver (Each Year of Biennium)
- Funding strategies for housing for individuals with mental retardation currently in the community

Prevention of Underage Alcohol Consumption

- Evidence-based projects in each CSB to prevent underage alcohol consumption and resultant high risk behaviors (Each year of Biennium)

Jail Diversion-Each Year of Biennium and On-Going

- 7.5 M to fund 10 jail diversion projects using the Sequential Intercept Model, which provides diversion strategies at every point of intersection between a person with mental illness/co-occurring disorders and a law enforcement officer
- Fully fund the jail diversion programs in the original 10 sites

Geriatric Services-Each year of Biennium and On-Going

- 5 additional Systems of Care regional projects for older Virginians with MI, MR, SUD, and co-occurring conditions. Services will include respite care, mental health supports, psychiatry and medication, primary care physician consultation, day support, transportation, caregiver education and support, outreach and consultation for nursing homes and assisted living facilities.
- Fully fund the Northern Virginia and Tidewater area Systems of Care projects to deliver adequate services

Services for Adults and Children who are Deaf, Deaf-Blind and Hearing impaired with Mental Illness, Mental Retardation, and Substance Use Disorders-Each Year of Biennium and On-Going

- 7 regional deaf and deaf-blind services providers
- \$150,000 for the Interpreter Fund

Child and Family Services

- 5M to fund 10 Systems of Care projects (each year of Biennium)
- 3.4 M for growth in referrals to Part C/Early Intervention services (each year of Biennium)
- Recommend maximizing funding by expanding, under EPSDT, the pool of services for infants and toddlers with disabilities and delays. This will assist as well with the federal requirement to provide these services in natural environments, including in-home, in day care, and the like.

Attachment 3

Northern Virginia Aging Network (NVAN) 2008 State Legislative Platform

► Support In-Home and Community-Based Services

To help older Virginians avoid institutional placement, increase the capacity of proven cost-effective in-home and community-based services:

- *Transportation - the Critical Link*: Allocate \$2.5 million to the 25 Area Agencies on Aging for paratransit services.
- *Assess Need & Link to Services*: Allocate \$3.5 million for 25 local Aging and Disability Resource Centers (“No Wrong Door”) in the 25 Area Agencies on Aging, allowing seamless access to services for elders, adults with disabilities and families.

► Strengthen Facility and Community-Based Long-Term Care Systems

- *On-Site Advocacy*: Appropriate funds for adequate Long-Term Care Ombudsman staffing statewide.
- *Access to Needed Care*: Expand Medicaid level of care eligibility (for nursing homes and community-based waivers).
- *Address Direct Care Worker Needs*: Enact measures to encourage adequate living wage and benefits for direct care workers in long-term care; including raising Medicaid reimbursement rates for personal care services and skilled/private duty nursing by 10% and establishing an annual inflation adjuster.

► Establish Virginia Housing Trust Fund

Increase Availability of Housing for a Lifetime:

- Establish an independent Virginia Housing Trust Fund to provide financing to localities, housing developers and individuals for construction of livable and affordable *new* single and multi-family housing that meets accessibility guidelines, and livable and accessible *renovations* of existing housing stock.
- Direct the Virginia Department of Housing and Community Development to establish guidelines for accessible and livable housing.
- Dedicate a source of funding providing a minimum of \$50 million annually to support the Virginia Housing Trust Fund.

► Address Continuing Challenges

- *Prevent Escalation of Mental Health Needs*: Appropriate funds for an intensive specialized geriatric mental health outreach team and for regional geriatric private bed purchase.
- *Protect Health in Assisted Living*: Require assisted living residences to report communicable disease outbreaks to the local health department; and clarify agency authority to take action.
- *Learn from Questionable Deaths*: Establish an adult fatality review team.
- *Protect Low-Income Older Adults*: Prohibit predatory lending.
- *Protect Health Care Consumers*: Support evaluation and assessment of health care professionals.