

# **City of Portsmouth, Virginia**

2013 Virginia General Assembly

Legislative Package



Adopted

November 27, 2012

# Portsmouth City Council

## Table of Contents

<b>Item</b>	<b>Page #</b>
<b>Portsmouth City Charter Changes</b>	<b>3</b>
<b>Amend Certain Provisions of PPEA/PPTA</b>	<b>4</b>
<b>Constitutional Amendment – Restoration of Voting Rights</b>	<b>6</b>
<b>Virginia Code Amendment – Regional Jails</b>	<b>8</b>
<b>Tax Code Change – Special Transportation Zones</b>	<b>9</b>
<b>Study Request – Toll Impact Mitigation</b>	<b>10</b>
<b>Revenue Sharing Agreement – Port of Virginia Economic And Infrastructure Development Zone</b>	<b>11</b>
<b>Portsmouth Port and Industrial Commission – Charter Change</b>	<b>13</b>
<b>Budget Appropriation Request – Children’s Museum of Virginia</b>	<b>14</b>
<b>Public Policy Items – Support/Oppose</b>	<b>15</b>
<b>2013 Legislative Package Endorsements</b>	<b>17</b>



## Portsmouth City Council

### **Legislative Initiative #1: To correct language in the City Charter to address election filing dates and related activities.**

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The Portsmouth City Charter was amended during the 2011 General Assembly session (SB 1138) to repeal the then existing Charter, providing a new updated Charter containing powers typically granted to cities. Numerous outdated and redundant provisions were deleted. Among the changes made was the following:

In Charter Section 3.03 – *Election of Mayor and City Council Members* the Charter was changed to provide that as of 2012, these elections would be held in November, rather than in May which was the prior procedure. However, Charter Section 3.02 – *Nomination of Candidates* Section “a” subsection “4” ***“(4) Such petition shall not be signed by any elector prior to the first Tuesday in January of the year of such election, and such petition shall be filed with the general registrar of the city not later than the time fixed for the closing of the polls on the first Tuesday in June of the year of the election.”***

This highlighted portion was not corrected to reflect the appropriate filing date for these petitions. Correcting this date will also require technical changes to the following subsections of this portion of the City’s Charter: *“d. Candidates for the offices of Mayor and City Council member shall appoint one campaign treasurer and file the name and address of said campaign treasurer with the Portsmouth Electoral Board not later than the first Tuesday of June of the year of the election. Any candidate who fails to appoint and report the appointment of a treasurer shall be deemed to have appointed him/herself treasurer. All candidates for such offices shall comply with the applicable provisions of Chapter 9 of Title 24.2 of the Code of Virginia.”*

These technical changes along with the correction that needs to be made in the petition filing date are all reflected in a bill pre filed in July of this year by Senator Lucas, Senate Bill 688: *“Charter; City of Portsmouth: Changes the date for the closing of the polls in an election for the office of Mayor or City Council member from the first Tuesday in June to the second Tuesday of June of the year of election. The amendment also moves the deadline for appointing a campaign treasurer from the first to the second Tuesday of June and makes the technical change of allowing the circulation of petitions to begin on January 1, as permitted by the Code of Virginia, rather than on the first Tuesday in January.”*



## Portsmouth City Council

### **Legislative Initiative #2: Amend Certain Provisions of the PPEA/PPTA to provide an avenue for negatively affected jurisdictions of affected localities to have more of an input into PPEA/PPTA projects located within their respective boundaries.**

In recent years, the Commonwealth of Virginia has begun relying more heavily on the use of the PPEA/PPTA to address sorely needed infrastructure in Virginia. As the PPTA was initially designed, it was to be used as a tool to leverage public sector funding through attracting private sector to risk capital and to bring private sector creativity and efficiency to the task of addressing large projects within the Commonwealth of Virginia. It has been noted; however, that little evidence exists to substantiate that private sector capital will be attracted to a significantly expanding pool of transportation revenues. Instead, the PPTA projects are largely being funded with either traditional transportation funds or municipal bonds, with these bonds being backed by the use of tolls; or other public tax sources which are supplemented with standard state and federal transportation revenues.

This process has evolved and grown beyond its current original intent, and at this time, appears to be the premier process for addressing transportation and economic development policy making decisions above and beyond the scope of this Act's original legislative intent.

In the past three years, Portsmouth has been, and is being, negatively impacted by these PPTA agreements. First with the Midtown Tunnel/Downtown Tunnel/Martin Luther King Expressway project and the impending tolls that will be placed upon these important thoroughfares in our city; then on the heels of that deal, due to the potential privatization of the Ports in Virginia, we are now facing the possibility of losing over \$4.5 million in Real Property tax revenue which we are receiving from the APM/Maersk facility.

Currently, affected jurisdictions ability to obtain information regarding these deals is sketchy and a bit tenuous. According to Maria J.K. Everett, Director and Senior Staff Attorney for Virginia's FOIA Commission, "Virginia's Freedom of Information Act (FOIA) does not preclude/prohibit the release of any record except where otherwise provided by law. However, FOIA was not designed to be between government entities although it can certainly be used when inter-government cooperation breaks down. Under the PPEA and PPTA, interim and/or comprehensive agreements once executed become open public documents (Virginia Code Sections 56-563, 56-573.1:1 as well as 2.2-3705.6 (11) of the FOIA. These sections discuss the interaction between a responsible public entity and affected jurisdictions. The FOIA citation referred to expressly provides: "...Once a written determination is made by the responsible public entity, the records afforded protection under this subdivision shall continue to be protected from the disclosure when in possession of any affected jurisdiction or affected



local jurisdiction.” Ms. Everett’s ultimate suggestion was that an amendment to FOIA was not necessary or advisable given that the issue is to require a responsible public entity to share documents with any affected jurisdiction. Instead she suggested that an amendment to the PPTA to better clarify the relationship between the responsible public entity and the affected jurisdiction(s) may be the more appropriate route to take.

Therefore, the Portsmouth City Council would like to request legislation, and supports any legislation that would amend the provisions of the PPEA/PPTA which would require that any prospective agreement by and between the Commonwealth of Virginia, or its agencies, entities, or instrumentalities, and any private entity or organization, for any public works project permissible under this section; which may substantially and adversely impact local tax revenues or which would substantially and adversely increase the taxes, fees, or expenses borne by the residents of one or more localities affected thereby, must seek the advice and obtain the consent of the elected governing body of each such locality prior to and as a condition of any final closing of any such contact, agreement, treaty, or compact.



## Portsmouth City Council

### **Legislative Initiative #3: Constitutional amendment; restoration of civil rights to persons convicted of nonviolent felonies.**

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The current practice in Virginia for persons convicted of a felony (non-violent and violent) is that they automatically lose their civil rights, to include the right to vote. In order to have their rights restored, the ex-offender has to go through a process of filing a petition with the Secretary of the Commonwealth requesting that these rights be restored to him/her. Traditionally, this petition had to be accompanied by character statements from highly regarded persons within their community who would attest to the improvements the ex-offender has made in their lives. Also, all fines and fees owed to the Commonwealth of Virginia related to the offense had to have been paid prior to the submission of the petition. There was no stated period of time that had to evolve before the ex-offender could even begin this process. It was up to the sitting Governor of Virginia to review the petition and decide whether or not to restore these rights.

This process proved to be very onerous on ex-offenders, and consequentially many people were discouraged from pursuing restoration of their rights. The collateral consequences from criminal arrests and convictions in Virginia became the hallmark theme for a Study and legislation that ensued in the last years of Senator W. Henry Maxwell's tenure as a member of the Virginia General Assembly (2002 – 2003). Due to his efforts and the efforts of several other legislators hence, several changes were made to address these collateral consequences including restoration on one's civil rights. Currently the process to have ones rights restored is as follows: (taken from the Secretary of the Commonwealth's webpage):

*“If you have lost the right to vote as a result of a felony conviction in a Virginia court, a U.S. District or a military court, you must have your rights restored in order to qualify for voter registration. The restoration of rights restores the rights to vote, to run for and hold public office, to serve on juries and to serve as a notary public. It does not include the right to possess or transport any firearm or to carry a concealed weapon. In order to be eligible for restoration of rights by the Governor, an applicant must:*

- *Be a resident of Virginia, and/or have been convicted of a felony in a Virginia court, a U.S. District court or a military court*
- *Be free from any sentence served or supervised probation and parole for a minimum of two years for a non-violent offense or five years for a violent felony or drug distribution, drug manufacturing offense, any crimes against a minor, or an election law offense.*
- *Have paid all court costs, fines, penalties and restitution and have no felony or misdemeanor charges pending.*
- *Not have had a DWI in the five years immediately preceding the application.*



- *Not have any misdemeanor convictions and/or pending criminal charges 2 years preceding the application for non-violent felonies or five years for a violent felony or drug distribution, drug manufacturing offense, any crimes against a minor, or an election law offense.”*

Although some improvements have been made in this process, there are still many hurdles that one must overcome prior to having their civil rights restored. For several-years legislators such as former Senator Yvonne B. Miller submitted legislation requesting a Constitutional amendment for automatic restoration of the civil rights for non-violent felony ex-offenders once their debts to the Commonwealth had been fulfilled. Unfortunately, these bills never passed into law. To date, the disenfranchisement of many citizens continues to exist. With the numerous initiatives that have sprung up over the years to assist with reentry of ex-offenders back into our communities, further improvement of this process would only serve to further aid this transition.

The Portsmouth City Council would therefore request that legislation be introduced, and fully supports any legislation that would provide a Constitutional means by which non-violent felons who have been stripped of their civil rights can have them restored once they have paid their debt in time and money to the Commonwealth of Virginia.



## Portsmouth City Council

### **Legislative Initiative #4: Amend and reenact Virginia Code Section 53.1-74: When court may adopt jail of another county or city.**

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The current Code Section referred to above states:

*“When a county or city is without an adequate jail, or its jail is to be removed, rebuilt or repaired, the circuit court thereof shall adopt as its jail the jail of another county or city until it can obtain an adequate jail. All persons committed or ordered committed to the jail of the first mentioned county or city, at or after such adoption and before and adequate jail be so obtained, shall be conveyed to the jail so adopted.”*

It was brought to the attention to of the Portsmouth City Administration by members of the Portsmouth judiciary that this Code Section is silent as to the use of “regional jails” and should be amended to clarify that they can also be considered by the judges as a place to remand an offender.

Therefore, the City of Portsmouth is seeking legislation to have this Code Section amended to include “regional jails” as an option for the judges to place prisoners.



## Portsmouth City Council

### **Legislative Initiative #5: Amend the Virginia State Tax Code to provide tax liability relief --- Creation of Special Transportation Zones.**

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With the advent of the numerous PPTA projects that are supported with the implementation of tolls, and especially for the City of Portsmouth (that will be surrounded with major tolled transportation routes), the City of Portsmouth would like to see legislation introduced, and fully supports any legislation that will provide taxation relief due to the imposition of these tolled facilities.

During the 2012 General Assembly Session, Senator Lucas introduced Senate Bill 567: low income and student toll tax credit; established. This bill seeks to establish a tax credit for students and low-income persons who have an E-Z Pass or who pay tolls. The amount of the credit is capped at \$1,000 per qualified taxpayer. This bill was continued to 2013 in the Senate Finance Committee. Also this year, in the House of Delegates, Delegate Thomas Davis Rust introduced House Bill 862: Income tax, state; deduction for tolls. This bill establishes an individual income tax deduction beginning with the 2013 taxable year for tolls paid for the use of a publicly owned and publicly operated highway located in the Commonwealth. This bill was also continued to 2013 in the House Finance Committee.

Standing Committees of the General Assembly generally meet in December to review the bills that was carried over in their respective Committees to determine which bills will be brought back for consideration during the ensuing General Assembly Session. Generally, the majority of carried over bills never come back for consideration in the following year.

The City is therefore seeking legislation that would amend the tax laws of the Commonwealth so as to establish special transportation zones within the Commonwealth in such cities, towns, counties or districts that demonstrates a substantial and adverse economic impact on their residents' ability to pursue employment, education, or medical care caused by tolls or transportation fees imposed in lieu of general appropriations to pay in whole or in part for public transportation infrastructure within the Commonwealth. This legislation should entitle all residents of such special transportation zones who are required to pay such tolls or fees in connection with their employment, education, or medical care to deduct from their personal state income tax liability an amount not less than 50% of all sums actually expended by the taxpayer in tolls or fees specifically related to such activities.



## Portsmouth City Council

### **Legislative Initiative #6: Study Request – Toll impact mitigation measures for disadvantaged populations.**

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The expanding use of tolls and increase in toll amounts to support PPTA projects in the Commonwealth of Virginia has touched numerous corners of the State resulting in outcries from citizens and state and federal legislators alike to rescind, reduce or not place tolls on various thoroughfares within Virginia. Tolls on these roads have generated intense pro and con lobbying efforts.

Tolls imposed within certain jurisdictions that do not have alternative routes or adequate public transportation, and also have a high degree of low to moderate income persons, students and seniors are faced with undue hardships due to the imposition of these tolls and their spiraling increases.

Should the General Assembly and the Governor continue in its stance to not raise taxes to help pay for sorely needed transportation projects, not identify other sources of reliable, reoccurring and sustainable revenue sources for these projects, but instead continue to rely on the use of tolls to help pay for these projects, then it would seem prudent that a Study such as this should be undertaken to identify ways to relieve this tax burden on its less affluent citizens.

The City of Portsmouth requests legislation of this nature to be introduced, and will support any legislation that will address this problem.



## Portsmouth City Council

### **Legislative Initiative #7: Amend the Virginia Code by adding Code Section 15.2-6407:1 establishing a revenue sharing agreement for localities located within the Port of Virginia Economic and Infrastructure Development Zone.**

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During the 2012 General Assembly session and in particular the 2012 General Assembly Special Session 1, legislation passed creating Virginia Code Section 62.1-132.3:2 – *Grants to companies locating or expanding in the Port of Virginia Economic and Infrastructure Development Zone; grant fund established.*

Subsection "A" of this Code Section states "From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, and any funds transferred at the request of the Executive Director from the Port Opportunity Fund created pursuant to Virginia Code Section 62.1-132.2:1, there is hereby created in the state treasury a special non-reverting, permanent fund to be known as the Port of Virginia Economic and Infrastructure Development Zone Grant Fund (the Fund), to be administered by the Virginia Port Authority. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund which shall be in the form of grants shall be made by the State Treasurers on warrants issued by the Comptroller upon written request signed by the Executive Director. Moneys in the Fund shall be used solely for the purpose of grants to qualified applicants to the Port of Virginia Economic and Infrastructure Development Zone Grant Program."

Subsection "B": states " The Virginia General Assembly does hereby designate the following localities to be part of the Port of Virginia Economic and Infrastructure Development Zone: the Counties of Brunswick, Chesterfield, Charles City, Clarke, Dinwiddie, Frederick, Gloucester, Greensville, Henrico, Hanover, Isle of Wight, James City, Mecklenburg, Montgomery, New Kent, Prince George, Southampton, Surry, Sussex, Warren and York; and the Cities of Chesapeake, Colonial Heights, Emporia, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach, Williamsburg and Winchester."

According to the Virginia Commission on Local Government, currently in Virginia there are over 30 such successful revenue sharing agreements in Virginia. Therefore, creating a revenue sharing agreement for the new Port of Virginia Economic and Infrastructure Development Zone would not be an anomaly. This legislation, if passed, does not commit any locality in this "Zone" to have to participate in a revenue sharing agreement. It merely allows for one to be created. In the spirit of regionalism, it would be up to these localities to decide if they would like to enter into and develop such an agreement.



The City of Portsmouth supports this concept and requests that their General Assembly Delegation submit legislation that would provide the first step in the development of a revenue sharing agreement for the members of this “Zone.”



## Portsmouth City Council

### **Legislative Initiative #8: Amend the Charter of the Portsmouth Port and Industrial Commission (“PPIC”).**

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The Board of the Portsmouth Port and Industrial Commission requests that its Charter be amended to replace the current requirement for an annual audit with a requirement that the PPIC shall cooperate with the City of Portsmouth’s independent auditor in preparation of the City’s Combined Annual Financial Report (CAFR).

In addition, the Charter should further state that PPIC shall have an annual report of financial performance prepared by an independent Certified Public Accountant, which report may be an audit, a compilation, or a review performed in accordance with requirements of the Virginia Board of Accountancy.



## Portsmouth City Council

### **Legislative Initiative #9: Budget Appropriation Request - Children's Museum of Virginia - \$250,000.**

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The Children's Museum of Virginia located in Portsmouth is widely used by numerous school districts within the Hampton Roads Region and beyond.

The museum first opened in December 1980 when the Lancaster's donated their personal collection of 5000 toys and trains, lovingly collected for more than forty years. The museum was born in the basement of the Portsmouth library. In 1984 the size of the museum doubled and moved to the 1846 Courthouse on the corner of High and Court Streets. In 1998 on the museums' 18th birthday, it moved to its present location at 221 High Street.

Renovations were made by adding over 30 interactive exhibits within 63,000 square feet of space, and re-arranging the Lancaster Train Set. In 2009 the entire building was gutted to make a more new, modern museum. The new museum added all new exhibits and over 9,000 square feet of space to the existing building.

It is the largest children's museum in Virginia providing exhibit space and fun for kids of all ages. The museum features dozens of interactive exhibits and a planetarium, as well as an antique toy and model train collection, one of the largest on the East Coast. It is diversified in its mission to educate the young and old alike.

Recently the museum has been working collaboratively with the Portsmouth Public Schools and Norfolk State University to offer STEM (Science, Technology, Engineering and Mathematics) after school and summer programs at the museum. This funding would aid in the continuance of these important programs for our youth.

The City of Portsmouth requests an appropriation of \$250,000 from the General Assembly to be paid in equal amount over the next two Fiscal Years (\$125,000 FY 13 and \$125,000 FY 14) to support the continuance of the STEM programs.



## Portsmouth City Council

### Regional and Statewide Public Policy Legislative Support/Opposition Statements

The City of Portsmouth fully supports any legislation and budget amendment that accomplishes the following initiatives. *Please note this is not an inclusive listing and is not listed by priority:*

- **Support** the restoration and fully funding for K-12 Education.
- **Support** the full restoration of the cuts for State Aid to Localities.
- **Support** the restoration and full funding of the Public Safety Fund (599 Fund).
- **Support** for the identification and allocation of non-general fund dollars to adequately address transportation needs without the reliance on tolls or local revenues.
- **Support** for any legislation that will **amend the Public Private Partnership Act (PPPA)** providing for more transparency in the process; as well as the ability for affected local governments or jurisdictions to provide significant input prior to the finalization of any contractual agreements.
- **Support** the restoration of cuts and oppose further cuts to public libraries and Behavioral Health Service.
- **Support** automatic restoration of voting rights to *non-violent felons*.
- **Support** the restoration of funding for Adult Services.
- **Support** any efforts by the State which would provide revenue to help spur economic development for the Virginia Port's Host Cities.
- **Support** budget request for the Virginia Community Services Boards.
- **Support** the removal of all **unfunded** State mandates on local governments, and *relaxation* of those that cannot be removed until the economy improves.
- **Support** adequate funding for the Virginia Intercity Passenger Rail Service.
- **Support** for the Chesapeake Bay Foundation's request for a Governor's Budget Amendment in the amount of approximately \$100.7 million to complete funding for municipal wastewater treatment plants in accordance with the Chesapeake Bay Watershed Implementation Plan (WIP).
- **Support** of the Urban Crescent's demand that the Governor of the Commonwealth of Virginia and the Virginia General Assembly give due consideration to appropriately address and align the State's Highway Maintenance and Operating Fund, the Transportation Trust Fund, and the Intercity Passenger Rail Operation



and Capital Fund with the immediate and long-term needs for road and transit funding within the Urban Crescent.

- **Support** Tort Reform: Allowance of summary judgments if justified by deposition statements.
- **Oppose** ending the moratorium on Uranium mining.
- **Oppose** the elimination of BPOL and Machinery and Tools taxes, especially without identifying a means to replace the lost revenue.
- **Oppose** any further restriction of local revenue authority or sources without providing alternative revenue authority and sustainable sources.
- **Oppose** any further shifting of state funding responsibilities onto local governments, to include law enforcement and public safety activities.
- **Oppose** the findings and recommendations of the Virginia Department of Rail and Public Transit for SJR 195- which are to redistribute the same pot of transit money that currently exists among transit providers. This action merely sets the stage for competition for the scarce funds currently available, without adding any new revenue thus creating uncertainty for sustainable future transit funding.



## Portsmouth City Council

As proud and active members of the following organizations, the City of Portsmouth also endorses the 2013 Legislative Packages or legislative initiatives for the following organizations:

1. The Virginia First Cities
2. The Virginia Municipal League
3. The Hampton Roads Transportation Planning Organization
4. The Hampton Roads Chamber of Commerce
5. The Virginia Urban Crescent Group
6. The Hampton Roads Partnership
7. Hampton Roads Sanitation District (HRSD)
8. Hampton Roads Chesapeake Bay Foundation

