

City of Portsmouth, Virginia

2019 Virginia General Assembly

Legislative Package



Adopted

October 23, 2018



Portsmouth City Council

The Honorable John L. Rowe, Jr., Mayor
The Honorable Elizabeth M. Psimas, Vice Mayor
The Honorable William E. Moody, Jr.
The Honorable Lisa Lucas-Burke
The Honorable Nathan J. Clark
The Honorable Ray S. Smith, Sr.

City Manager's Office

Dr. L. Pettis-Patton, City Manager
Mrs. Cheryl J. Spivey, Chief Financial Officer
Mr. LaVoris A. Pace, Deputy City Manager
Mr. Robert A. Baldwin, Interim Deputy City Manager

City Attorney's Office

Mr. Solomon H. Ashby, Jr., City Attorney

City Clerk

Mrs. Debra Y. White, CMC, City Clerk

Intergovernmental Affairs Manager

Ms. Sherri L. Neil

CITY OF PORTSMOUTH
GENERAL ASSEMBLY DELEGATION

Senator L. Louise Lucas, 18th Senatorial District

Pocahontas Building - Room No: E508
Senate of Virginia - P. O. Box 396
Richmond, VA 23218
Phone: (804) 698-7518 Fax: (804) 698-7651
Email: district14@senate.virginia.gov
Legislative Assistant: Vernon Tillage

Senator Mamie E. Locke, 2nd Senatorial District

Pocahontas Building
Room No: E510 - Senate of Virginia
P. O. Box 396 - Richmond, VA 23218
Phone: (804) 698-7502 Fax: (804) 698-7651
Email: district02@senate.virginia.gov
Legislative Assistant: Theresa E. Parker

Senator John A. Cosgrove, 14th Senatorial District

Pocahontas Building - Room No: E607
Senate of Virginia - P. O. Box 396
Richmond, VA 23218
Phone: (804) 698-7514 Fax: (804) 698-7651
Email: district14@senate.virginia.gov
Legislative Assistant: Christie New Craig

Delegate Matthew James 80th House District

Pocahontas Building – Room No: E405
900 E. Main Street – Richmond VA 23219
Phone: (804) 698-1080 Fax: (804) 698-6780
Email: DelMJJames@house.virginia.gov
Legislative Assistant: Kim Rollins

Delegate Stephen E. Heretick 79th House District

Pocahontas Building – Room No: E322
900 E. Main Street – Richmond, VA 23219
Phone: (804) 698-1079 Fax (804) 698-6779
Email: DelSHeretick@house.virginia.gov
Legislative Assistant: Joseph Waymack

Portsmouth City Council 2019 State Legislative Package

Table of Contents

	<u>Page #</u>
Preface and Resolution	5 - 7
Legislative Requests:	
A. Reduction in minimum recycling rates	9 -10
B. Felony Drug Convictions – TANF Eligibility	10 -11
C. Voting Rights Information for Penal Detainees/Released Inmates	11 -12
D. FOIA Council – Study SWOT of Release of Public Employees PII	12 -13
E. ERC, LLC – Toll Buy Down and State Purchase Contract	14 -15
Budget Request:	
F. Mt. Calvary Cemeteries Complex – Restoration of Gravesites	15 -16
Local, Regional and Statewide Public Policy Statements:	18 - 23
• Casino Gaming	
• School Facility Modernization	
• Economic Development Initiatives for VPA Host Cities	
• Restore funding for Community Services Boards	
• Transit Funding – Identify Dedicated Funding Sources	
• State Funding Assistance for Road and Bridge Projects (HRB & I-295)	
• Improve Fiscal Relationships between State and Local Governments	
• Increase Funding for Local Stormwater Assistance and Water Quality Improvement Funds	
• Provide Funding for HR recurrent flooding/sea level rise projects	
• Decriminalization of Marijuana Possession	
• Increase State Assistance to Local Law Enforcement (599 Funding)	
• Mental Health – Increase funding and programs	
• Increase K-12 Education Funding	
• Host Cities of the VPA – Equitable Funding	
• Clean Chesapeake Bay – Increased assistance for MS4 Permit localities	
• Communications and Sales Use Tax – Reverse 2018 Legislative Action	
• Increase funding for Virginia Housing Trust Fund	
• Hurricane Rated Shelters for Hampton Roads Region	
• Kinship Guardian Assistance Program – Clarified Eligibility	
2018 Legislative Package Endorsements	25
Casino Gaming Resolution	27 – 28

Preface

The Portsmouth City Council respectfully submits to you this 2019 State Legislative Package for your review, consideration, and support of the items contained within. These initiatives were thoroughly vetted by the city's administrative leadership and this City Council. By resolution on a unanimous vote, the City Council adopted this package on October 23, 2018. The issues addressed within reflect City Council's 2017 Vision Principles:

- ***Prosperous Port***
- ***Lifelong Learning***
- ***Safe and Friendly Communities***

Moving forward as the "New Portsmouth, to truly implement our vision, we must address impediments in our community preventing the advancement of many of our citizens. In this legislative package, we have included two social justice issues that are inhibiting our less fortunate citizens from receiving social service assistance and/or retarding their ability to vote. These destabilizing impediments hinder them from becoming constructive taxpaying citizens. Criminal activities often result from their frustration emanating from being disenfranchised. This in turn impacts our efforts to create the safe, friendly and desirable environment we aspire to, in which we can all live, work, and play.

The first social justice initiative addresses barriers resulting from the Code of Virginia preventing only one class of felony offense from receiving stabilizing safety net services such as TANF and housing. It is a recognized fact that most incarcerated persons eventually return to their communities. Yet, ex-felon drug dealers are unable to receive social services and housing. This disqualification is counterproductive and only serves to destabilize their successful reentry into the community. For these vulnerable populations, the inability to have assistance in securing basic stabilizing necessities (housing, food, and finances) oftentimes inevitably is the root cause of their returning to alternative methods of generating money. The disenfranchisement they experience eventually leads to them becoming depressed and frustrated leading to their relapse, the reselling of drugs to support their habit, and eventual recidivating.

The second social justice initiative addresses voter suppression. This is an unintended consequence resulting from not providing pre and post felony conviction offenders information regarding their voting rights. Currently, the Code of Virginia provides means for pre-felony convicted detainees and misdemeanants in local and regional jails to vote, but they must make the request. The Code of Virginia also provides that felons released from prison be provided information by the Virginia Department of Corrections regarding the process of having their civil and voting rights restored. The problem with both matters arises from the lack of providing voting rights information to inmates in local and regional jails. This in effect creates a form of voter suppression, because if one does not know their rights, one will not exercise those rights. For example, in the latter instance, although the Virginia Code provides that information regarding the restoration of civil and voting rights be provided to felony offenders upon exiting the state penal system, it is silent on providing this information to felons released from local and

regional jails. In this legislative package we are requesting legislation addressing both matters.

Also included in our package is:

- A legislative request relating to the Freedom of Information Act. Specifically, the issue of cybersecurity hacking and identity theft of public employees and citizen contact information from the unsecured electronic releases of personal identifiable information (PII)
- A legislative request to address an environmental issue which recently surfaced regarding state required mandatory recycling processing rates, and
- A budget request for \$64,000 in extraordinary maintenance funds to address the repair and replacement of seriously deteriorated grave markers and headstones at out historic Mt. Calvary Complex Cemeteries

Last, but certainly not least in importance, we strongly urge the Commonwealth to proactively protect the taxpayers of Virginia through preemptively addressing the “non-compete” clause embedded in its contract with the Elizabeth Rivers Crossings, LLC. Once the new tolled transportation infrastructures come online in Hampton Roads, there is a high probability that this “clause” will be triggered. Rather than spending taxpayer’s money fighting and paying for a law suit, or burdening Hampton Roads commuters with high toll rates resulting from avoiding the “non-compete” clause trigger, the state should take proactive steps to identify means to buy down the tolls or buy out the contract. If the state currently finds that it is not financially able to address this matter, we encourage the General Assembly to seriously consider legalizing casino gaming. Revenues realized from this industry could not only be used to address this issue, but they will also aid our city in funding the revitalization efforts in our downtown corridor. Successful implementation of our “Crawford Gateway” project will go a long way in helping us replace lost revenues to this city from loss of businesses and business due to the tolls on the Midtown and Downtown tunnels.

In closing please know that the members of the Portsmouth City Council are ever grateful for the coordinated and progressive partnership we share with you on matters of importance to our city. We seek your support for our legislative initiatives, as well as with any other legislative and budgetary matters having an impact on the City of Portsmouth which may arise during the 2019 state legislative session. Lastly, we thank you for your service to our city and this commonwealth, and we look forward to working with you again in the upcoming legislative session.

A RESOLUTION ENDORSING THE CITY'S 2019 GENERAL ASSEMBLY LEGISLATIVE PACKAGE.

WHEREAS, the Virginia General Assembly deals with a broad range of issues that affect local government both directly and indirectly; and

WHEREAS, the City of Portsmouth has certain concerns that deal with both Portsmouth specifically and local governments in general; and

WHEREAS, these concerns need to be made known to Portsmouth's General Assembly delegation so that they may be transmitted for consideration by the Legislature.

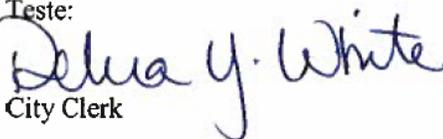
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Portsmouth, Virginia, that it hereby endorses the positions listed on Exhibit A hereto for inclusion in the Legislative Package for the 2019 General Assembly session.

BE IT FURTHER RESOLVED that the City Manager is directed to provide a copy of this Resolution and the 2019 Legislative Package to each member of the City's General Assembly delegation.

BE IT FURTHER RESOLVED that the City Manager and/or her designee(s) are hereby authorized and directed to provide necessary input and clarification during the 2019 Virginia General Assembly session and to carry out other activities as needed to assist in attaining the goals and objectives contained in the City's 2019 Legislative Package.

ADOPTED by the Council of the City of Portsmouth, Virginia, at a meeting held on October 23, 2018.

Teste:


City Clerk

2019 Legislative Requests

A. Reduction in required minimum recycling rates

Issue: Virginia Code §10.1-1411 subsections D1 and D2 required minimum recycling rates should be reduced to reflect current industry changes

Context: Over the past 10-years, the Virginia General Assembly has considered, but not passed bills that would have either reduced or banned the use of disposable plastic items.

Until 2017, China was the leading importer of plastics and recycled materials from around the world, but that has changed. China found that the quality of the materials they were receiving were declining and contamination rates were increasing. They were no longer receiving clean and sorted materials, but instead their shipments were full of scrap material with food and product residue, and scrap bales with materials that were outside of bale specifications.

This lowered the value of the materials, increased their processing costs and resulted in higher instances of unusable materials needing to be discarded – leading to stress on their communities and their environment.

As a result, “China notified the World Trade Organization in July 2017 of its intention to ban the import of 24 different kinds of waste, including some post-consumer plastics beginning January 2018. In November 2017, China announced its limits for material contamination rates at 0.5% (the previous was 1.5%) for most imported recyclables not mentioned in the ban. Achieving these very low levels of contamination is challenging, and most Material Recovery Facilities (MRFs) in the United States, or anywhere, are not yet prepared to comply with this directive.”¹

The impact of China’s decision varies across the United States, with those heavily impacted being forced to slow their processing rates down at their MRFs’ to comply with the 0.5% contamination rate policy. Consequentially, some materials that used to be collected as recyclables are being sent to landfills to relieve the congestion caused by the slower processing rates. This presents problems of another nature, because the polymers used to develop these products do not decompose and their chemical components leach over time into the earth, impacting our soil and aquifers.

Virginia Code §10.1-1411 sets out in subsection D1:

“...each solid waste planning unit shall maintain a minimum recycling rate for municipal solid waste generated within the solid waste planning unit pursuant to the following schedule:

1. Except as provided in subdivision 2, each solid waste planning unit shall maintain a minimum 25% recycling rate; or
2. Each solid waste planning unit shall maintain a minimum 15% recycling rate if it has (i) a population density rate of less than 100 persons per square mile according to the most recent U.S. Census, or (ii) a not seasonally adjusted

civilian unemployment rate for the immediately preceding calendar year that is at least 50% greater than the state average as reported by the VEC for such year.

Legislative Request:

In lieu of adopting any substantial legislation reducing or banning the use of disposable plastic items, the Portsmouth City Council requests the Virginia General Assembly amend Virginia Code §10.1-1411 Subsection D1 and D2 reducing the mandatory recycling rates to reflect the current market and processing conditions.

¹ [Philos Trans R Soc Lond B Biol Sci.](#) 2009 July 27; 364(1526): 2115-2126

B. Felony Drug Convictions – TANF Eligibility

Issue: Unfair prohibition of social safety net services to a singular group of felons, which in turn impacts recidivism.

Context: The federal government's 1996 Personal Responsibility and Work Opportunity Act (PRWORA) bans individuals with felony drug convictions from receiving Supplemental Nutrition Assistance Program (SNAP) benefits. SNAP benefits were formerly known as food stamps, which provided low-income individuals with financial assistance to pay for food. The SNAP program is fully funded by the federal government, but states administer the program and share in the administrative costs.

This ban on individuals with felony drug convictions does not apply to individuals with any other type of felony. Codified as U.S.C. §862a, the statute contains a provision that allows states to opt out or modify the ban without any reduction in funding. To opt out or modify the ban, a state must enact alternative legislation:

- 2014 – Forty (40) states opted out of the lifetime ban instead setting eligibility policies for TANF for individuals with felony drug convictions
- 2015 – Thirty-eight (38) states that opted out of the federal ban, allowed persons with felony drug convictions to receive both food and financial assistance to provide social support and reduce recidivism
- 2016 – Eighteen (18) states moved to completely abandon the federal prohibition with twenty-six (26) states (including Virginia) partly easing these restrictions
- 2018 – Only three (3) states still enforce a lifetime ban (West Virginia, South Carolina and Mississippi)

Virginia:

Currently, Virginia Code §63.2-505.2 only provides an exemption to 'felony drug possession' However, the Virginia Department of Social Services references §273.11(m) of CFR-2012-title7-vol14-sec273-11, which references the Federal language:

“§273.11(m) – Individuals convicted of drug-related felonies.

“An individual convicted (under Federal or State law) of any offense which is classified as a felony by the law of the jurisdiction involved and which has an element the possession, use, or distribution of a controlled substance (as defined in section 102(6) OF THE Controlled Substance Act, 21 U.S.C. 802(6)) shall not be considered an eligible household member unless the State legislature of the State where the individual is domiciled has enacted legislation exempting individuals domiciled in the State from the above exclusion. If the State legislature has enacted legislation limiting the period of disqualification, the period of ineligibility under this provision is only limited to convictions based on behavior which occurred after August 22, 1996. The income and resources of individuals subject to disqualification under this paragraph (m) shall be treated in accordance with the procedures at paragraph (c) (1) of this section.”

Beginning in approximately 2013, opioid use in Virginia increased to previously unseen levels. Currently, in 2018 health officials have characterized this uptick in opioid use in our communities as a public health crisis. Individuals suffering from addiction are subject to increasing rates of incarceration. Under Virginia’s current statutory scheme, individuals convicted of possession without the intent to distribute are still eligible for TANF and SNAP providing they comply with the program requirements. However, individuals convicted of possession with the intent to distribute, or any related conviction for conspiracy to distribute controlled substances, are not eligible for any assistance.

The collateral effect of the opioid crisis is a new class of non-violent felony drug offenders who are distributing drugs primarily to support their own habits. Without the aid of these social safety-net programs, these individuals are particularly at risk for relapse and recidivism. The cost to the Virginia taxpayer of repeated incarceration for felony drug offenders is potentially much higher than the cost of providing these programs and the possibility for rehabilitation. It is a proven fact that the provision of life’s necessities such as food, shelter, and employment stem this trend. Several studies indicate that access to programs that provide these types of assistance help break the cycle of relapse and recidivism.

Legislative Request:

The Portsmouth City Council requests that the Virginia General Assembly either amend §63.2-505.2 or repeal it completely. Should the legislature choose to simply amend, we suggest it be amended in one of the following ways:

“ A person who is otherwise eligible to receive food stamp benefits shall be exempt from the application of section 115(a) of the Personal Responsibility and Work Opportunity Act of 1996, P.L. 104-193, and shall not be denied such assistance solely because he has been convicted of **a felony offense of possession of a controlled substance** in violation of §18.2-250, provided such person is complying with, or, has complied with, all obligations imposed by the criminal court, is actively engaged in or has completed a substance abuse treatment program, participates in periodic drug screenings, and any other obligations as determined by the Department. (2005, c. 576).

Or create a more equitable distribution of the law, by amending it as follows:

“ A person who is otherwise eligible to receive food stamp benefits shall be exempt from the application of section 115(a) of the Personal Responsibility and Work Opportunity Act of 1996, P.L. 104-193, and shall not be denied such assistance solely because he has been convicted of **a felony offense of possession of a controlled substance** in violation of §18.2-250., ~~provided such person is complying with, or, has complied with, all obligations imposed by the criminal court, is actively engaged in or has completed a substance abuse treatment program, participates in periodic drug screenings, and any other obligations as determined by the Department.~~ (2005, c. 576).

C. Voting Rights Information for Penal Detainees/Released Inmates

Issue: Address unintended voter suppression by amending and re-enacting Virginia Code §24.2-700 and Virginia Code § 53.1-231.1 relating to voting rights of detainees awaiting trial or misdemeanants and notice of restoration of voting rights to released felonious inmates.

Context: Virginia Code §24.2-700 (Persons entitled to vote by absentee ballot) subsection 5 states:

“...Any person who is confined while awaiting trial or for having been convicted of a misdemeanor, provided that the trial or release date is scheduled on or after the third day preceding the election. Any person who is awaiting trial and is a resident of the county or city where he is confined shall, on his request, be taken to the polls to vote on Election Day, if his trial date is postponed and he did not have an opportunity to vote absentee...”

Additionally, Virginia Code §53.1-231.1 (Process for notification regarding restoration of civil rights) requires the Director of the Department of Corrections to provide any person convicted of a felony notification of the loss of their civil rights and the processes to apply for restoration of civil rights and voting rights. “The notice is to be given at the time the person has completed service of their sentence, period of probation or parole, or suspension of their sentence”.

In the first instance, the issue of unintended voter suppression occurs due to the lack of knowledge on behalf of the detainee or misdemeanant. Although the law provides for the ability of these persons to exercise their voting rights, it is incumbent upon the inmate to request the right to vote absentee, or to be taken to the polls if he has missed the absentee voting opportunity.

In the second instance, it appears that the notification regarding restoration of one’s civil/voting rights is only provided to persons exiting the state’s penal system (like the requirement to provide photo identifications, birth certificates and social security cards upon release) and not regional and local jails.

Legislative Request:

In both instances, the unintended voter suppression consequences arise due to the lack of knowledge of one's rights, and lack of information provided by local and regional jails to detainees, misdemeanants, and felons released from these penal institutions. To address this matter, the Portsmouth City Council requests that a flyer or pamphlet regarding one's voting rights be provided to all detainees and misdemeanants, as well as felons released from regional and local jails.

D. Freedom of Information Council (F.O.I.A. Council) – Study the threat and expense of phishing expeditions for public employees' public identifiable information (PII), and citizens contact information

Issue: Under current F.O.I.A. provisions, the hacking of electronically generated F.O.I.A. information containing public employees PII is not sufficiently addressed. Also, there are no provisions under F.O.I.A. to inform citizens that the contact information provided by them when contacting a local government is included in an F.O.I.A. request unless they specifically state their information should be excluded.

Context: Currently, Virginia F.O.I.A. §232-3705.1. A provides that:

“...no provision of this chapter or any provision of Chapter 38 shall be construed as denying public access to (ii) records of the name, position, job classification, official salary, or rate of pay of, and records of all allowances or reimbursements for expense paid to any officer, official, or employee of a public body...”

In the current state of technological connectivity, and the ability to access information through various means through use of the internet, the availability of this personal identifiable information (PII) increases the risk of identity theft for public employees through the unsecured exposure of their PII information. Furthermore, it places the integrity of municipal information technology systems at risk through compromised accounts of email addresses. With the information obtained through this type of requests, a nefarious actor could open loans, transact business, and profit from information gathered.

Additionally, citizens of municipalities that supply contact information for reasons of receiving information from them, must specify in their transmittals that they do not wish for their contact information to be disclosed. If this statement is not included, a local government has no recourse but to disclose their information.

Legislative Request:

As technology continues to advance, and becomes more pervasive in its usage and misuses, laws and regulations must be revised to adequately address issues that arise with this medium. Although the language in Virginia F.O.I.A. 2.2-3705.1.1A may have been adequate when it was implemented, it does not adequately address the issues presented above. Therefore, it is the desire of the Portsmouth City Council that the

F.O.I.A. Council take these matters under consideration through a study and identify methods to address these issues.

E. Identify legislative/budgetary means for the State to address the Elizabeth River LLC's contract to pay down the tolls until the contract can be purchased by the State

Issue: The Virginia General Assembly either include in its debt capacity funding to buy out the Elizabeth River Crossings, LLC, or significantly buy down the tolls until it can purchase the contract.

Context: The Midtown/Downtown Tunnel Project, was a \$2.1 billion project with a fifty-eight (58) year contract. 2070 is the anticipated year for ERC to turn the facility over to the Virginia Department of Transportation. Included in this ill-conceived contractual agreement is a provision providing a 3.5% annual toll hike beginning in 2018, or the rate of the Consumer Price Index (CPI), whichever is the highest. In exchange for operating and maintaining the roads, ERC gets an average annual profit of 13.5 percent over the period of the contract.

"The Commonwealth's agreement with Elizabeth River Crossings permits ERCO to increase tolls by 3.5 percent annually, or the growth in the consumer price index over the trailing 12 months, if that is higher. [...this means that the \$1.84 peak-time toll for passenger cars would increase to \$11.79 in 2070 if tolls increased at only 3.5 percent annually but would jump to \$21.56 if the growth in the CPI between now and 2070 matched what was true between 1956 and 2014. During that 58-year time, the annual growth in the CPI was higher than 3.5 percent on 24 occasions. Specifically, past CPI growth suggests that tolls will increase at an average of 4.66 percent per year, not 3.5 percent. Thanks to the miracle of compound growth, this would increase ERCO's total revenue by slightly more than 82 percent over the 3.5 percent scenario. [...reveals that the \$7.36 peak-hour toll that trucks will pay in 2016 will grow to \$47.17 if tolls increase at only 3.5 percent annually, but to a stupendous \$86.24 if they grow at the 4.66 percent annually. It is not difficult to envision a scenario in which such tolls inhibit economic activity in Hampton Roads."¹

The commonwealth's initial investment in this project was \$408 million. Under Governor McAuliffe's Administration, and additional \$165.5 million was placed on the debt to delay the initial tolling prior to the opening of the new tunnel, and removal of the tolls intended for the Martin Luther King flyover. In total, the state's investment to date is \$573.5 million. ERC has also pledged to donate \$5 million over a ten-year (10-year) period to assist low-income Portsmouth residents reduce their toll bills.

Although the citizens of Portsmouth and users of these facilities are grateful for this relief, unless significantly more relief is provided, by some accounts, in the out years these tolls will be extremely onerous for the average commuter in the Hampton Roads region, and

¹ [The Impact of Vehicle Tolls on Hampton Roads](#) – The State of the Region – 2014

seriously untenable. Compounding this issue, is the “non-compete” clause included in the contract whereby if any other tolls are implemented in the Hampton Roads region which are lower than those imposed by ERC, and ERC can show that the competition is negatively impacting their revenues, ERC can sue the commonwealth for the loss of business. With the advent of the Third Crossing (Patriot’s Crossing) and the High Occupancy Transit Vehicle (HOTV) lanes being included on I-64 on the Peninsula and the new spans of the Hampton Roads Bridge tunnel, and in other areas in the region, those tolls would have to be equal to those charged by ERC in order for the commonwealth not to default on its contractual agreement with this company. Thus, creating a quagmire for the Commonwealth Transportation Board, the Virginia Department of Transportation, and ensuing Governor’s and General Assembly members and the Hampton Roads commuters.

Legislative/Budgetary Request: The Portsmouth City Council once again encourages the Virginia General Assembly to identify means and methods to buy out the Elizabeth River Crossings, LLC’s contract with the state, or significantly buy down the tolls on the Midtown and Downtown Tunnels until such time that the state can purchase the contract.

F. Budget Amendment - Mt. Calvary Cemeteries Complex – Extraordinary Maintenance

Issue: Funding in the amount of \$64,000 in FY2020 for the extraordinary maintenance of gravestones and grave markers in the historic Mt. Calvary Cemeteries Complex.

Context: The 2017 Virginia General Assembly approved passage of HB 1547 and its associated budget amendment which directed “...*the distribution of funds appropriated for caring for historical African-American cemeteries and graves to qualifying nonprofit organizations that preserve historical African-American cemeteries established before 1900. The funding formula is \$5.00, or the average cost of routine maintenance, multiplied by the number of graves, monuments, and markers of African American who lived at any time between 1800 and 1900 and are interred in the cemetery.*”² “*Additionally, subject to appropriations of funds for such purposes, the bill authorizes the distribution of a grant to such cemeteries to perform extraordinary maintenance, renovation, repair, or reconstruction of its historical cemeteries or graves.*”³

This bill listed two cemeteries, East End Cemetery in Henrico County and Evergreen Cemetery in the City of Richmond, Virginia for a total of 6,975 gravesites. The enabling legislation included \$34,875 general fund support for the routine maintenance in FY18, with the projected budget appropriations through FY2023.

² “Plastics recycling: challenges and opportunities” *Philos Trans R Soc Lond B Biol Sci.* 2009 July 27;364(1526): 2115-2126
Department of Planning and Budget 2017 Fiscal Impact Statement – HB 1547

³ Department of Planning and Budget 2017 Fiscal Impact Statement – HB 1547

“In addition to establishing a program to provide for the routine maintenance and care of historical African-American cemeteries and graves, the bill establishes a grant program for grants to qualified organizations to perform extraordinary maintenance, renovation, repair or reconstruction of any or their respective historical African-American cemeteries and graves. These grants would be subject to appropriation of funds for this purpose by the General Assembly.”⁴

The 2018 General Assembly passed legislation making the historic Mt. Calvary Cemeteries Complex, the third African-American cemetery added to the new state catalog of these burial grounds. This noteworthy addition was noted by Governor Northam with his ceremonial signing of HB527 and SB 198 in Portsmouth on June 22, 2018. Accompanying these two bills were budget amendments requesting funds for ongoing maintenance (\$1,500) and for extraordinary maintenance of gravestones and grave markers (\$64,000). Although the budget request for maintenance was awarded, due to the major issue of Medicaid expansion and the perceived state funding needed to achieve this momentous statewide initiative, numerous other budget requests, including the request for extraordinary maintenance at the Mt. Calvary Complex were not funded. Since that time, in September of 2018, the State’s General Fund Revenue Collections were up 4.0% from previous year and, the Fiscal-Year-To-Date collections are up 2.7%.

Budgetary Request:

In lieu of the up-tick in the state’s revenues since sine-die of the 2018 Virginia General Assembly session, the Portsmouth City Council requests that the state favorably consider providing the \$64,000 requested but not awarded in the last legislative season for the extraordinary maintenance needs at the historic Mt. Calvary Cemeteries Complex.

⁴ Department of Planning and Budget 2017 Fiscal Impact Statement – HB 1547

**LOCAL / REGIONAL / STATEWIDE
PUBLIC POLICY
ISSUES**

1. Casino Gaming – The Portsmouth City Council supports all legislative initiatives establishing casino gaming in Virginia. The city continues to experience negative fiscal impacts resulting from the imposition of the tolls on the Midtown and Downtown Tunnels. In a recent study conducted by Dr. James V. Koch, an economist from Old Dominion University showed that the cities of Portsmouth and Suffolk are suffering the greatest loss of business due to the tolls. The city of Portsmouth having the greatest fiscal impact thus far of over \$840 million⁵. Legalizing casino gaming would allow for Portsmouth to include in its redevelopment plans for our downtown area (Crawford Gateway Project), and profits realized from this venue could assist in providing revenue to aid this redevelopment project. (See City Council Resolution – pp 29 - 30)

2. School Facility Modernization – There exists a severe need not only in Portsmouth, but in many regions around the commonwealth of Virginia for updating our public-school buildings. Many of our schools (including Portsmouth’s) are over fifty (50) years old. Although they have been maintained over the years, continuing to repair old and outdated buildings and their infrastructure is no longer financially reasonable. Old HVAC systems, leaking roofs, mold, dimly lit classrooms, small hallways, lack of auditoriums, lunch room spaces, etc. as well as technology challenges merits these buildings being demolished and rebuilt. The Senate Local Government subcommittee on School Facility Modernization during the interim, have conducted several tours statewide noting these and other needs in various regions of the state. The City of Portsmouth, and the Portsmouth School Board supports the efforts of this subcommittee and support recommendations for new avenues for funding public school construction and renovations costs.

3. Economic Development Initiatives for VPA Host Cities – During the 2018 Virginia General Assembly session, at the behest of Delegate Matthew James, Speaker of the House of Delegates, the Honorable M. Kirkland “Kirk” Cox, directed the President and CEO, Dr. Stephen Moret, of the Virginia Economic Development Partnership (VEDP) to convene a workgroup composed of representatives from the Virginia Port Authority (VPA) the host cities of the VPA (Portsmouth, Norfolk, Newport News, Richmond and Front Royal) working along with Delegate Matthew James, to identify economic development incentive opportunities specifically for the port host cities with a report due back to Delegate Cox by November 1, 2018.

4. Restore funding for Community Services Boards (CSBs’) - The FY 2019 and FY 2020 budgets included funding cuts to Community Services Boards’ funding. This funding was cut based on the premise that with the expansion of Medicaid, if the CSB’s signed up more clients, the state would make up the funding. Although health care expansion through Medicaid may eventually make up these reductions, the timing of this implementation left the CSB’s with six (6) months to make up for a year’s worth of reductions in FY 2019 placing them at risk of service reductions, and staff disruptions.

As of July 1, 2018, the City of Portsmouth’s Department of Behavioral Health Services

⁵ “The Impact of Tolls on the City of Portsmouth” Dr. James V. Koch, May 20, 2018 and June 12, 2018

(DBHS) received a funding reduction of \$86,235 and is scheduled to receive another reduction in FY2020 (July 1, 2019) of \$189,729. The Portsmouth DBHS is already overly stressed due to the additional obligations assigned to it from the Hampton Roads Regional Jail, with no additional funding provided. These cuts only stand to further stress this department's ability to provide services to the city's clients, and those at the HRRJ. Therefore, the Virginia General Assembly must immediately restore the FY2019 funding and reexamine its premises for the FY 2020 funding. In especially ensuring the state's goal of providing more services at the community level, including the new STEP-VA service requirements, can be achieved without shifting funding burdens onto local governments.

5. Transit Funding – Identify Dedicated Funding Sources - It is very imperative that the General Assembly identify state funds to replace the state bond funding that will significantly decline beginning in FY2019 for transit State of Good Repair (SGR) and transit expansion. The Commonwealth needs steady and reliable revenues dedicated to the statewide transit capital program.

6. State Funding Assistance for Road and Bridge Projects (HRBT & I-64/I-664) – A significant need exists for major funding contributions from the Federal and State governments towards the \$2.6 billion price tag for the Hampton Roads Bridge Tunnel (HRBT) project. Currently, this project is entirely funded with Hampton Roads Transportation Accountability Commission (HRTAC) regional tax dollars and the Hampton Roads Transportation Fund (HRTF). However, this bridge and tunnel crossing is not just a significant transportation artery in Hampton Roads, but it is also of significant importance to the military, to national security, to the Port of Virginia and to the economy of the east coast of America. As such, the State and Federal government should share in the funding of this project.

As for the I-64/I-664 road projects, there is a coordinated effort on behalf of the Hampton Roads Planning District Commission (HRPDC), the Hampton Roads Transportation Planning Organization (HRTPO), and HRTAC to develop an interconnected High Occupancy Transportation (HOT) Network system in Hampton Roads. This network includes I-64/I-664, and through the HRBT project and continuing along I-64 through the High-Rise Bridge, ending at the Bowers Hill Interchange in Chesapeake. It is imperative that the State not usurp the revenue generated by the I-64 Regional Express Network but return them to HRTAC for its use along the corridor in accordance with Federal and State regulations. Furthermore, it is paramount for the State to note that the HRTPO has not endorsed implementation of HOT lanes west of I-64/I-664 interchange in Hampton.

7. Improve Fiscal Relationships between State and Local Governments – The State should view its local governments as partners and include them in any major fiscal decisions prior to enacting more unfunded mandates through the addition of new programs, modifying existing program guidelines, promulgating complex regulations and higher standards for local governments to implement. Listed below are a few of the essential principles exhorted by the Virginia Municipal League, the Virginia Association of Counties and Virginia First Cities which the State should adhere to:

- Do not further restrict specific local revenue authority and sources without first granting and providing alternative revenue authority with reliable, sustainable revenue sources. To include, without limitation the Business Professional and Occupation License (BPOL) and the Machinery and Tools (M&T) taxes
- Include local governments in any discussion relating to local taxing authority, including legislation exempting specific industries and groups of taxpayers from local taxes and fees
- The State should not confiscate or re-direct local general funds and special funds to the State treasury
- Imposition of state fees, taxes and surcharges on local government services impedes transparency at both the state and local levels
- Any tax reform efforts must begin with a thorough examination of state tax reform and the financing of state services. The State should reform its own tax structure before taking on the topic of local taxes. State and/or local tax changes should not negatively affect local revenues

8. Increase Funding for Local Stormwater Assistance and Water Quality Improvement Funds

- The General Assembly needs to provide sufficient appropriations to the Water Quality Improvement Fund (WQIF) to fulfill point source upgrade contracts with local governments as well as cost-share payments to farm operators for the implementation of agricultural best management practices. Additionally, the city requests the General Assembly to provide sufficient appropriations, including dedicated revenues to the Stormwater Local Assistance Fund (SLAF) to address costs associated with permit requirements tied to federal Municipal Separate Storm Sewer Systems (MS4) and new EPA regulations.

9. Provide Funding for HR recurrent flooding/sea level rise projects – Funding is needed from the State and Federal governments to address recurrent flooding and sea level rise projects, particularly those projects that protect the missions of the military installations and Federal governments’ agencies located in Hampton Roads. Of concern is the event of another Base Realignment and Closure (BRAC) and the considerations that will be placed on the impact recurrent coastal storms and sea level rise is having and will have on essential military operations. Without State and Federal assistance to address these issues, the military’s missions in our region could be significantly reduced or removed, which would be devastating the Hampton Roads and Virginia’s fiscal health.

10. Marijuana Possession Decriminalization – Decriminalization is not legalization. It merely removes criminal penalties for possessing small amounts of marijuana for personal use. States that have decriminalized marijuana have placed limitations on the amount one can legally possess. These laws in these states also dictate where and when this substance cannot be used. Violation of this criteria results in a civil fine rather than a criminal offense. Also, marijuana remains a prohibited substance. To date, twenty-nine states and the District of Columbia currently have laws broadly legalizing marijuana in some form, with thirteen states decriminalizing marijuana. The Virginia

General Assembly has taken some steps in this area through legalization of medical marijuana. It would behoove the State to take the next step and decriminalize small amounts for personal use. By doing so, the State, the court systems, local and regional jails, local and state law enforcement will save millions of tax payers dollars which are expended annually to arrest, prosecute and provide probation services for these misdemeanants.

11. Increase State Assistance to Local Law Enforcement (599 Funding) - Almost 70 percent of Virginians live in communities served by police departments. The state created this program of financial assistance to local police departments when it imposed an annexation moratorium on cities more than thirty (30) years ago. However, it has increasingly de-emphasized this funding obligation as a priority but has never compromised on the annexation moratorium. The Virginia General Assembly should honor its commitment to public safety by fully funding the program as stipulated in the Code of Virginia.

12. Mental Health – Increase funding and programs – The Virginia General Assembly should support an intergovernmental and interdisciplinary partnership to address the epidemic of opioid and heroin overdoses in the commonwealth. Any mental health policy framework adopted by Virginia should target:

- Prevention – reduction in the supply legal opiates, and tracking and reduction of the supply of illegal opiates such as heroin and synthetic substances
- Harm reduction – active intervention until treatment is available and accepted
- Treatment – for those who are addicted, and support/recovery resources for family members of people in treatment; and
- Culture change - discourage use/overuse of legal opioids, change pain management expectations, and remove stigma regarding addiction treatment and recovery

13. Increase K-12 Education Funding – The real cost of education according to the state’s formula, operating costs are broken down on a statewide level as 55% state and 45% local funding. However, the Standards of Quality (SOQ’s) do not factor in the true costs of public education such as:

- Pupil transportation
- School Support Staff
- Broadband and other technology provisions and updates
- Instructional staff salaries
- Most school construction and renovation costs

Local governments match more than is required for basic state education dollars, pay most of public school’s capital costs and struggle to find scarce local tax dollars to keep up with the demands for meeting additional and expanding state requirements; and for creating 21st century learning environments for our children to master the challenges of

tomorrow's workplace. The Virginia General Assembly should take these costs into consideration when re-benchmarking.

14. Host Cities of the Virginia Port Authority (VPA) – Equitable Funding - For more than thirty (30) years, the City of Portsmouth, along with the other host cities of the VPA have campaigned for more equitable funding from the State, to address the impact the VPA has on our respective jurisdictions.

Although we are pleased to have the VPA operating in Portsmouth, and we have been good business partners for 66 years, the fact remains that its daily operations come at a tremendous cost to our City. More than 800 trucks a day enters and exits from these facilities. VPA's business enterprise occupies 1,170 acres of nontaxable prime waterfront property in three host cities. In Portsmouth, the total assessed land and building value for VPA property for FY15 is \$126,476,870. If this property was taxable it would have generated well over \$1.6 million in Real Property taxes. The General Assembly and the Governor need to address this matter by either fully funding the new formula it approved in 2000 or devise another method in which payments to the host cities is much more equitable than the current outdated methodology.

15. Clean Chesapeake Bay – Increased assistance for MS4 Permit localities – New state funding sources to address Chesapeake Bay nutrient reduction requirements are needed.

16. Communications and Sales Use Tax – Reverse 2018 Legislative Action – The Virginia Communications Sales and Use Tax was enacted to establish a statewide tax rate and to pre-empt local taxes on communications sales and services. The Virginia General Assembly should set the tax rate at the same level as the state sales tax rate and broaden the coverage of the tax to include audio and video streaming services and prepaid calling cards. The state should not transfer these revenues to the state's general fund for purposes other than those stipulated in the Code of Virginia.

17. Increase funding for Virginia Housing Trust Fund – The Virginia General Assembly should appropriate funding for the Virginia Housing Trust Fund for housing programs and projects that preserve and produce affordable, workplace housing opportunities.

18. Hurricane Rated Shelters for Hampton Roads Region – The advent of Hurricane Florence in September 2018 brought some major issues to light in the Hampton Roads region. The cities in Hampton Roads were divided into four evacuation zones: A, B, C, and D. Prior to the storm shifting its path, Governor Northam declared a state of emergency as did the City of Portsmouth. Mandatory evacuations were required of every zone "A" in each of the cities in Hampton Roads. Public school buildings in Portsmouth, not located in a flood zone were identified and opened as shelters. But, as the storm continued to approach our area, it appeared for a period that all persons living in zone "B" may also be told to evacuate. In the case of the city of Portsmouth, evacuating both zones "A" and "B" would impact 80,000 people. The total population for the city is approximately 97,000 people. Our Emergency Management team estimated that for 80,000 people, approximately 8,000 may need sheltering.

In scouring the city to locate other options, Tidewater Community College in Portsmouth was contacted to determine if the facility could be utilized, if necessary, as a backup shelter. We were surprised to learn from the state's Emergency Management Coordinator, that this state facility could not be utilized because it is not hurricane rated. This facility is less than 14 years old, but when constructing it, making it hurricane rated was not considered. Furthermore, we also learned, that in Hampton Roads, there are no state buildings, or buildings such as public schools that are constructed or renovated with state dollars that are hurricane rated. And, many of the schools located in these older urban cities that are flood prone, have schools that are 50-years old or older, and could not sustain the impact of the force of a hurricane such as Florence that threatened our region. Had this storm continued in its original path, the devastation in coastal Hampton Roads would have been astronomical.

It is a wiser expenditure of tax payer's funds for the commonwealth to be proactive in addressing this issue, rather than reactive. Waiting until after a calamitous storm event occurs in this region will cost much more, than if the legislature would begin retrofitting some state buildings in Hampton Roads making them hurricane rated, as well as providing adequate funding to local governments in this region when building or renovating public school buildings to make them hurricane rated as well. As a wise man named Benjamin Franklin once said... "A stich in time, saves nine."

19. Kinship Guardian Assistance Program – Clarified Eligibility - On April 4, 2018 Governor Northam signed two bills into law giving authority to the Virginia Department of Social Services (VDSS) to implement KinGap beginning July 1, 2018. Once the bills were signed, VDSS began developing guidance for local departments of social services (LDSS) which were made available in June of 2018. KinGap is an additional permanency option for youth in foster care. The program allows the relative caregivers to continue to receive financial support through maintenance payments after custody of the youth is transferred to the relative and youth is discharged from foster care.

The issue with this approach is that a child must be placed into foster care first, prior to a family member being able to assume responsibility of the child. This is generally not the procedure used nationwide for implementing this program. In general, children are initially placed with grandparents and other relatives who raise them and ensure their safety, promote their well-being, and establish stable households for these young people to thrive.

Kinship care can be an informal or formal arrangement in which a grandparent or other relative cares for a child for either a short-term or a long-term period when a parent is unable to care for the child. The child is not placed in foster care prior to a relative being able to assume care for the displaced youth. The Virginia General Assembly should revise the guidelines for Virginia's Kinship Guardianship Assistance program to emulate the way in which this program is implemented nationally. This should be done through clarifying through legislation that should a child be brought into care, the Virginia Department of Social Services (DSS) should always look to a family member first with which to place a child rather than placing them initially into foster care.

**2019 GENERAL ASSEMBLY
LEGISLATIVE PACKAGE
ENDORSEMENTS**

2019 Legislative Packages Endorsements:

The Portsmouth City Council endorses and supports the legislative packages and initiatives of several organizations to include, but not limited to those listed below.

Furthermore, we empower our City Manager and her designee/s to represent the City's interests on all matters pertaining to these and any other legislative and budgetary initiatives that impact the City of Portsmouth:

- **Hampton Roads Planning District Commission**
- **Hampton Roads Transportation Planning Organization**
- **Hampton Roads Transit**
- **Tidewater Community College**
- **Treasurers' Association of Virginia**
- **Virginia First Cities**
- **Virginia Library Association**
- **Virginia Municipal League**
- **Virginia Port Authority**
- **Virginia School Boards Association**

**PORTSMOUTH CITY COUNCIL
RESOLUTION
SUPPORTING
CASINO GAMING IN VIRGINIA**

A RESOLUTION IN SUPPORT OF AMENDING THE VIRGINIA CODE TO PERMIT CASINO GAMING IN THE COMMONWEALTH OF VIRGINIA.

WHEREAS, since 2013 bills have been introduced in the Virginia General Assembly to permit casino gaming in the Commonwealth; and

WHEREAS, on December 28, 2013 and January 10, 2017 Portsmouth City Council adopted Resolutions expressing its support of legislation to permit casino gaming; and

WHEREAS, it is anticipated that similar legislation will be introduced for consideration during the 2019 Session of the Virginia General Assembly, and the Portsmouth City Council desires to express its support for such legislation; and

WHEREAS, since 2014 Elizabeth River Tunnels (ERT), under an agreement with the Commonwealth, has imposed tolls on the Downtown and Midtown Tunnels which have created a substantial burden on Portsmouth residents, commuters and businesses; and

WHEREAS, taxable sales city-wide in Portsmouth are estimated to have been reduced by more than \$2.2 million per quarter (\$8.8 million annually) because of the tolls, with the net effect in 2017 being a \$488,000 reduction in tax revenue collected by the City; and

WHEREAS, based upon the number of workers who must use the tunnels as they come and go from jobs in Portsmouth or travel east of the Elizabeth River to work, Portsmouth remains the single most vulnerable city in the region with respect to the tolls, 6.3 times more impacted than Virginia Beach and 3.8 times more impacted than Norfolk; and

WHEREAS, a typical resident of Portsmouth pays a larger share of his or her income in tolls than a typical resident of other regional cities, even when using the tunnel the same number of times, meaning that Portsmouth's economic ability to pay the tolls is not as high as that of other cities; and

WHEREAS, the local revenues derived from casino gaming would provide a substantial economic boost to the city to counteract in part the economic burden of the tolls; and

WHEREAS, the state revenues derived from casino gaming would provide additional funds for education and other important and underfunded local needs;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Portsmouth, Virginia, that it supports and endorses the adoption of legislation permitting casino gaming in the Commonwealth of Virginia and directing that revenue from gaming be used to benefit localities including Portsmouth; and

BE IT FURTHER RESOLVED, that the City Manager is directed to forward a copy of this Resolution to the members of the Portsmouth General Assembly delegation.

ADOPTED by the Council of the City of Portsmouth, Virginia at a meeting held on October 23, 2018.

Teste:

Debra Y. White
City Clerk

THIS PAGE WAS INTENTIONALLY LEFT BLANK
