

MINUTES  
NVTC COMMISSION MEETING – DECEMBER 4, 2008  
NVTC CONFERENCE ROOM – ARLINGTON, VIRGINIA

The meeting of the Northern Virginia Transportation Commission was called to order by Chairman Euille at 8:14 P.M.

**Members Present**

David Albo  
Charles Badger  
Sharon Bulova  
Adam Ebbin  
William D. Euille  
Jeffrey Greenfield  
Pat Herrity  
Mary Hynes  
Dan Maller (alternate, City of Falls Church)  
Jeffrey McKay  
Thomas Rust  
Paul Smedberg  
Christopher Zimmerman

**Members Absent**

Kelly Burk  
Gerald Connolly  
Jay Fisette  
Mark R. Herring  
Catherine Hudgins  
Joe May  
David F. Snyder  
Mary Margaret Whipple

**Staff Present**

Lynn Everett  
Rhonda Gilchrest  
Scott Kalkwarf  
Greg McFarland  
Adam McGavock  
Kala Quintana  
Rick Taube  
Dale Zehner (VRE)

### Minutes of the November 5, 2008 NVTC Meeting

Mr. Zimmerman moved, with a second by Delegate Rust, to approve the minutes. The vote in favor was cast by commissioners Albo, Badger, Ebbin, Euille, Greenfield, McKay, Rust and Zimmerman. Commissioners Hynes, Maller and Smedberg abstained since they were not in attendance at the November meeting.

### Approval of NVTC and VRE Audits for FY 2008

Mr. Taube introduced Mike Garber and Dwight Burbaker, auditors from PBGH LLC, NVTC's and VRE's audit firm. Mr. Garber reported that they met with NVTC's Executive Committee prior to this meeting and provided a detailed overview of the audits. Both NVTC and VRE received clean opinions with no management comments. Mr. Garber explained that PBGH has given NVTC three unqualified opinions, which are the best that can be given.

In response to a question from Mr. Maller, Mr. Garber explained that the loss on sale of assets of \$3,176,932 listed in the VRE audit was the result of the sale of 29 older railcars, which were disposed of earlier than they normally would have been so that VRE could purchase the double decker Gallery railcars.

Mr. Zimmerman moved, with a second by Mr. Smedberg, to authorize NVTC staff to forward the audit report and financial statements to a list of interested agencies, firms and individuals and to post the results on NVTC's website. The vote in favor was cast by commissioners Albo, Badger, Ebbin, Euille, Greenfield, Hynes, Maller, McKay, Rust, Smedberg and Zimmerman.

### Legislative Items

Mr. Taube reported that NVTC's Legislative Committee is recommending adoption of the proposed NVTC and VRE legislative agendas. He provided an overview of the proposed federal and state legislative initiatives, which reflect the changes requested from local staff and elected officials. He also explained that at the request of WMATA staff, NVTC has included in its state legislative initiatives an endorsement of enacting amendments to Title 18 of the Virginia Code to include assaults on transit operators as a Class 6 felony. These additional penalties will help to improve safety for operators, passengers and the public at large. Mr. Zimmerman explained that Maryland is expected to introduce similar legislation and the District of Columbia already has legislation in place. He stated that the WMATA Board receives reports on assaults on bus operators almost every week. It has become a problem. Mr. McKay stated that it seems to make sense to have a seamless legislative solution between Maryland, Virginia and the District.

Mrs. Bulova arrived at 8:21 P.M.

Mr. McKay observed that challenges remain since most of the assaults are done by juveniles. He asked for more details about Class 6 felonies. Delegate Albo explained that once a person is convicted of a Class 6 felony, he will never be able to vote, never be able to own a fire arm, and will probably have a hard time getting a job. He also expressed concern that once this legislation passes for transit operators, then every other public employee will want the same protection. He suggested changing it to battery upon an operator who receives bodily injury shall receive mandatory jail time or some other enhanced punishment. Mr. Zimmerman stated that one could make the argument that Virginia already has laws concerning assault. Delegate Albo suggested "enhanced punishment for assault and battery of bus operators" and leave the details to the General Assembly. Mr. McKay stated that these assaults have increased over time and although it is not a serious problem in Virginia, it is important to send a message that bus operators should be protected.

Delegate Ebbin observed that the rail section of the Legislative Agenda includes amending Title 46 of the Virginia Code to prohibit pedestrians from crossing public thoroughfares when trains are present. He asked if this has been a problem in Virginia. Mrs. Bulova stated that VRE does have an issue with people trying to cross the tracks when trains are present. It is an issue at the Burke Station as well as other stations. Mr. Taube explained that as the trains are approaching the stations, people rush to get across the tracks. Chairman Euille stated that at the Alexandria Station, commuters have to cross the tracks to get to the other side to board the trains. If people are late, they try to beat the trains. He stated that this legislation would be beneficial.

Mr. Zimmerman moved, with a second by Mr. McKay, to approve the NVTC and VRE Legislative Agendas, as amended regarding the assault on bus operators. The vote in favor was cast by commissioners Albo, Bulova, Ebbin, Euille, Greenfield, Hynes, Maller, McKay, Rust, Smedberg and Zimmerman. Mr. Badger abstained.

#### VRE Items

Report from the VRE Operations Board and Chief Executive Officer. Mrs. Bulova encouraged commissioners to read the November VRE Operations Board minutes. She stated that there are no action items.

#### Revised NVTC January, 2009 Meeting Date

Mr. Taube explained that NVTC's regular meeting date falls on January 1, 2009. It is recommended that the commission change that meeting date to January 8<sup>th</sup>. Since NVTA is not scheduled for that evening and the General Assembly will not be in session, this date should be available for many commissioners.

Mrs. Hynes moved, with a second by Mr. Greenfield, to change NVTC's meeting date from January 1<sup>st</sup> to January 8, 2009. The vote in favor was cast by commissioners Albo, Badger, Bulova, Ebbin, Euille, Greenfield, Hynes, Maller, McKay, Rust, Smedberg and Zimmerman.

### NVTC Workprogram for 2009

Mr. Taube stated that at the January meeting NVTC will conduct a public hearing on its 2009 workprogram. The workprogram has been reviewed by local staff. As an example of new activities for 2009 (listed in bold type in the draft), NVTC staff has volunteered to manage consultants to update NVTA's transportation plan. The last time it was done, NVTC staff managed the \$1 million consulting contract.

Mr. Zimmerman moved, with a second by Mr. Greenfield, to authorize staff to release the draft workprogram for public comment and to advertise the public hearing for NVTC's January 8, 2009 meeting. The vote in favor was cast by commissioners Albo, Badger, Bulova, Ebbin, Euille, Greenfield, Hynes, Maller, McKay, Rust, Smedberg and Zimmerman.

Mr. Herrity arrived at 8:37 P.M.

### I-95/395 HOT Lanes

Chairman Euille introduced Young Ho Chang, VDOT's contract manager for the HOT lanes project. Mr. Young Ho Chang (herein after Mr. Young) also introduced Tim Young, Michael Hatchel and Jeff Cole of Fluor Transurban. Mr. Young gave a project overview and status report. Currently, the NEPA documents are being finalized and once approved by FHWA, public hearings can begin. It is anticipated that public hearings will occur in February, 2009 at three different locations in the region. Construction for the northern section is expected to begin in late 2009 or early 2010.

Mr. Young reviewed the results of the safety study. The issues have been broken out into five major categories: lane width, shoulder width, incident management, merge/diverge/weave issues, and driver confusion. The southern portion is not as difficult because there is room to expand lanes. The northern portion is restricted to the existing width of the facility. There will be 19 emergency pull off areas in the northern section. He reviewed the lane widths and shoulder widths along the northern section.

In response to a question from Delegate Ebbin, Mr. Young stated that once the new HOT lanes are operating there will be no free time on the lanes; people will either have to carpool or pay to drive on the lanes. Delegate Ebbin also asked if there have been other successful transit demand management (TDM) initiatives anywhere else in the country. Mr. Young replied that although there are other initiatives in other areas, this project is breaking new ground.

Delegate Ebbin asked if VDOT has estimated how much traffic will be backed up on I-95 and/or I-495 during construction. Mr. Young stated that it is hard to estimate, but they know it will be a challenge. For the I-495 HOT lanes project, VDOT will contract with PRTC to run buses, which will get people used to riding transit in that corridor. In response to Mr. Smedberg, Mr. Young replied that the current lanes will need to be shut down at certain times during construction but there are restrictions on when that can

happen. They will not be closed during peak travel times. He also stated that buses will have access to the lanes. There will be an extensive public outreach initiative to educate commuters. Mr. Smedberg asked when the specific details will be provided. He especially is concerned regarding Seminary Road issues. Mr. Young stated that the analysis of Seminary Road and Shirlington should be available for local governments' review in January, 2009. VDOT will also meet with jurisdictional staff and elected officials to review details. In response to another question from Mr. Smedberg, Mr. Young stated that BRT details still need to be analyzed.

Delegate Albo asked if the technology has been selected to catch violators. Tim Young explained that legislation requires the use of electronic equipment. Currently, there is a two-tiered approach. A person who wants to drive on the HOT lanes will need to acquire a tag that can be switched between HOV and single occupant. People entering the lanes without a tag would be sent a ticket in the mail. Secondly, the State Police will focus their efforts on HOV violators (those people that drive alone but have their tag switched on HOV). Delegate Albo stated that it is important to provide information to sluggers on how it will work. Mr. Young stated that they are planning on meeting with sluggers. Mr. McKay suggested looking at sluggers' Internet blogs.

Mr. Zimmerman stated that it will be very important for all signage to communicate that every vehicle using the HOT lanes has to have a tag. It will no longer be spontaneous so drivers will not be able to pick up sluggers and use the facility without the tag. In response to a question regarding enforcement, Mr. Young explained that infrared technology is being looked at that would provide information on how many people are actually in the vehicle. Fluor Transurban is also looking at technology to query transponders to determine if drivers switch the tag from HOV to single occupant status. In response to a question from Mrs. Bulova, Mr. Young explained that the same technology will be used on the Beltway HOT lanes and that whatever technology used will be EZ pass compatible. Mr. Zimmerman observed that the technology has not been proven and Fluor Transurban is still figuring out the technological solution. Mr. Young stated that Mr. Zimmerman's statement is a fair assessment; however, the HOT lanes will not open until 2012.

Delegate Ebbin asked if BRT is only going to be used to divert traffic during construction. Mr. Young stated that the state is looking at BRT for the corridor long after construction. VDOT will be analyzing the corridor for BRT as well as the linkages and how they could interface.

Mr. McKay stated that the EPG site and the ramp at Seminary Road are essential to BRAC. He asked if in the overall HOT lanes budget, it has been assessed that there would be enough funds to do these certified projects if the Army does not fund them, since some of the justification for the HOT lanes is tied to the BRAC activity. Mr. Young replied that the Seminary Road bus-only ramp is part of the project and the direct access ramp at the EPG site is not part of the budget. It is his understanding that the Army has funding for it and is in the design phase. Tim Young further stated that the modeling has been done without the EPG site. Therefore, once the overpass is completed, traffic should move even more smoothly than initially modeled.

In response to a question from Delegate Rust, Mr. Young provided more details about the additional 6,600 parking spaces included in the project. He stated that Fluor Transurban is responsible for 3,000 of those spaces. The remaining spaces will be funded from the \$195 million concession payment.

Mr. Zimmerman observed that statements made earlier in the discussion could be interpreted that the BRT component is assumed to be part of the project. Mr. Young clarified that the fatal flaw analysis will look at the BRT component and determine if it will be worth the investment. Mr. Zimmerman stated that there is no BRT, even though that is how the project was originally presented. Mr. Herrity stated that it is his understanding that the \$195 million will be used for investments and there will be BRT if it is determined to be the most efficient.

Mr. Smedberg asked if VDOT has a detailed outline of the public process. Mr. Young stated that he would provide this information. He stated that this project is really not that much different from other VDOT projects, although there is an added component of private sector involvement. Mr. Smedberg stated that he is concerned with the impact to commuters and the neighborhoods in these corridors. Local elected officials have already begun receiving concerns and complaints. Mr. Young stated that he will provide the public outreach plan to NVTC and as the project progresses, more information and details will be shared with the public.

Mrs. Hynes expressed concern for her constituents living in Arlington because more vehicles will be exiting the facility in Arlington than ever before and Arlington's streets could become clogged. She stated that she would feel more comfortable if VDOT created outcome statements concerning issues, such as insuring that the flow of traffic on Arlington's streets continues to work and insuring that the number of people who currently use the facility will not be reduced. If VDOT would provide some of these outcome statements, it would show that VDOT understands the concerns and issues raised by the region so that the burden is not just on the local governments. She stated that it is really hard to support this project when she does not know how it will impact the citizens of Arlington if drivers start "bailing" out of HOT lanes onto side streets when traffic is congested.

Chairman Euille thanked Mr. Young, Tim Young and the other representatives from Fluor Transurban for coming and giving this presentation.

Delegate Rust left the meeting at 9:35 P.M. and did not return.

Mr. Taube explained to the commission that a draft letter has been prepared to Virginia Secretary of Transportation Pierce Homer outlining some of the concerns raised. The commission then discussed the letter.

In response to a question from Mr. Herrity, Mr. Biesiadny explained that Fluor Transurban has stated that they will meet the federal guidelines of 45 miles per hour, but in fact it would be a degradation of service over what is currently happening today (average speed of 55 m.p.h. inside the Beltway and 65 m.p.h. below the Occoquan River). Mr. Herrity expressed his opinion that the letter should convey that the project

would bring needed capacity to the corridor, but it would not be needed if the state had provided adequate funding in the past. Mr. Zimmerman stated that he could not support this change. Mr. Herrity then suggested adding a question, "What is the projected added capacity provided by the project during peak and non-peak times for HOT Lanes, HOV and transit."

Delegate Albo expressed his opinion that there needs to be a hard stand on minimum speed of 45 m.p.h. as opposed to average speed of 45 m.p.h. Mr. Zimmerman stated that there is a concern that if bus travel becomes less advantageous because of lower speeds, riders could be lost, which could result in lost federal formula funding. The letter should reflect that current levels of speed need to be maintained. Delegate Albo suggested the wording, "Other than traffic accidents, what is the guaranteed minimum rate of speed of vehicles on the HOT lanes?"

Delegate Albo stated that it is dangerous to let the wording of the letter be malleable and open to interpretation. There should be no transportation double-talk. Mr. Smedberg suggested some changes to the letter, including moving some sentences around. He suggested including an inquiry as to what are the traffic "hot spots" such as Seminary Road and Eads Street. Mr. Zimmerman and Delegate Albo also provided suggestions to moving different sentences around in the letter. Mrs. Hynes suggested requesting information about their plan to mitigate the hot spots so to maintain reliability of transit service rather than just asking them what are the hot spots. Mr. McKay stated that if just two hot spots are mentioned he would hope they would not conclude that these are the only two hot spots the region is concerned about. It would be more interesting to know what they consider hot spots, so he would prefer not mentioning specific hot spots. Mrs. Hynes stated that the letter could ask what the hot spots are and what are the mitigation plans for those spots.

Mrs. Bulova observed that the letter states that the current HOV lanes work "extremely" well. She stated that she has had some experiences that the existing HOV lanes are not always operating well because of different choke points. Mr. Zimmerman replied that if the standard is that there are never any problems, then it clearly does not meet those standards and never will under any circumstance. However, if it is evaluated in terms of the rate of flow of people through the corridor, then the current system is tremendously effective. Mrs. Bulova stated that "extremely" implies that there is no room for improvement. Mrs. Hynes suggested an alternative of listing the statistic that the current HOV facility on I-95/395 moves twice as many people in half the lanes compared to conventional lanes. Therefore, this is the standard that the project needs to exceed for this region to consider the project a success.

Mr. Smedberg asked if the issue of BRT should be included in the letter. Mr. Zimmerman stated he would be supportive. He expressed his opinion that he feels NVTC and the rest of the region were misled because the first presentation was a "BRT/HOT Lanes Proposal." Chairman Euille agreed that it is important to reference BRT in the letter.

Chairman Euille stated that the letter will be revised to include commissioner comments. Mr. Smedberg asked that the letter be circulated among Executive Committee members prior to being sent. There were no objections.

Mrs. Hynes moved, with a second by Mr. Smedberg, to authorize NVTC's Chairman Euille sign and send the letter, after incorporating the changes discussed at this meeting. The vote in favor was cast by commissioners Albo, Badger, Bulova, Ebbin, Euille, Greenfield, Hynes, Maller, McKay, Smedberg and Zimmerman.

#### NVTC Nominating Committee for 2009

Chairman Euille reported that he has appointed the Executive Committee to serve as the Nominating Committee. The committee will propose a slate of officers at the next meeting.

#### Metro Items

Ridership at Virginia's Metrorail Stations. Metrorail ridership remains very strong in Northern Virginia.

Possible Relocation of WMATA Headquarters. At its November 20<sup>th</sup> meeting, a WMATA Board committee deferred discussion until January, 2009 at the request of a District of Columbia board member.

TPB Report on Metro Access. TPB has released a report about Metro Access performance. On November 20, 2008 the WMATA Board approved the first Metro Access Revenue Vehicle Fleet Management program. The current fleet of 458 vehicles serves 21,000 customers and provided over 1.7 million trips in FY 2008. Ridership is forecast to reach 2.9 million by FY 2013.

Elimination of Paper Transfers. Effective January 4, 2009, paper transfers on Metrobuses will be eliminated. The only way to transfer will be via the SmarTrip card. Transfer times will extend from two hours to three hours of unlimited travel in either direction.

#### Regional Transportation Items

Media Coverage of NVTC's Mode Share Results. NVTC's media release on mode shares at the Beltway screen line in the I95 corridor captured the attention of various media outlets.

First Third of FY 2009 Transit Ridership in Northern Virginia. Very strong ridership gains persist for all systems, although accurate Metrobus ridership data continue to be elusive.



Matt Tucker Leaving DRPT. Mr. Tucker has taken a position with the North County Transit District of California, effective January 5, 2009. He was DRPT's Director and an alternate member of NVTC's Board.

NVTC Financial Items for October, 2008

Commissioners were provided with the financial reports and there were no questions or comments.

Appreciation for Commissioner Gerald Connolly

Chairman Euille announced that Mr. Connolly is leaving NVTC after serving continuously since 1999. He has been elected to the U.S. Congress. An engraved acrylic award was on display that will be given to Mr. Connolly.

Closed Session for Personnel Item

Mr. Zimmerman moved, with a second by Ms. Bulova, the following motion:

Pursuant to the Virginia Freedom of Information Act (Sections 2.2-3711A (1) of the Code of Virginia), the Northern Virginia Transportation Commission authorizes discussion in Closed Session concerning a personnel item, pertaining to the annual performance review of NVTC's executive director.

The vote in favor was cast by commissioners Albo, Badger, Bulova, Ebbin, Euille, Greenfield, Hynes, Maller, McKay, Smedberg and Zimmerman.

The commission entered into Closed Session at 10:02 P.M. and returned to Open Session at 10:37 P.M.

Mr. Zimmerman moved, with a second by Mr. Smedberg, the following certification:

The Northern Virginia Transportation Commission certifies that, to the best of each member's knowledge and with no individual member dissenting, at the just concluded Closed Session:

1. Only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act discussed; and

2. Only such public business matters as were identified in the motion by which the Closed Session was convened were heard, discussed or considered.

The vote in favor was cast by commissioners Albo, Badger, Bulova, Ebbin, Euille, Greenfield, Hynes, Maller, McKay, Smedberg and Zimmerman.

Mr. Zimmerman moved, with a second by Mr. Smedberg, to approve the changes to Mr. Taube's compensation package as discussed during Closed Session and to direct Chairman Euille to convey these changes to Mr. Taube. The vote in favor was cast by commissioners Albo, Badger, Bulova, Ebbin, Euille, Greenfield, Hynes, Maller, McKay, Smedberg and Zimmerman.

### Adjournment

Without objection, Chairman Euille adjourned the meeting at 10:38 P.M.

Approved this 8<sup>th</sup> day of January, 2009.

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Christopher Zimmerman  
Chairman

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William D. Euille  
Secretary-Treasurer