

MINUTES  
NVTC COMMISSION MEETING – NOVEMBER 5, 2009  
NVTC CONFERENCE ROOM, ARLINGTON, VIRGINIA

The meeting of the Northern Virginia Transportation Commission was called to order by Chairman Zimmerman at 8:09 P.M.

**Members Present**

Charles Badger  
Sharon Bulova  
Adam Ebbin  
William D. Euille  
Jay Fiset  
John Foust  
Mark R. Herring  
Pat Herrity  
Catherine Hudgins  
Mary Hynes  
Dan Maller  
Jeffrey McKay  
Mary Margaret Whipple  
Christopher Zimmerman

**Members Absent**

David Albo  
Kelly Burk  
Jeffrey Greenfield  
Joe May  
Thomas Rust  
Paul Smedberg

**Staff Present**

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

## Minutes of the September 3, 2009 NVTC Meeting

Mrs. Bulova moved, with a second by Senator Whipple, to approve the minutes. The vote in favor was cast by commissioners Badger, Bulova, Euille, Fissette, Foust, Herring, Herrity, Hudgins, Maller, Whipple and Zimmerman. Mrs. Hynes abstained since she was not present at the last meeting.

Mr. McKay arrived at 8:11 P.M. Chairman Zimmerman noted that Mr. Zehner and Mr. MacIsaac have not yet arrived since they are coming from the meeting at PRTC, and the commission discussed whether to wait to begin VRE items. There were no objections to beginning the discussion.

### VRE Items

Report from the VRE Operations Board and Chief Executive Officer. Mrs. Bulova encouraged commissioners to read the minutes of the September 18<sup>th</sup> and October 16<sup>th</sup> VRE Operations Board meetings.

Approval of Spotsylvania County Membership Agreement and VRE Master Agreement Amendments. Mrs. Bulova reported that all of VRE's jurisdictions have acted affirmatively concerning approval of the Spotsylvania County membership agreement with VRE. The VRE Operations Board recommends commission approval of Resolution #2132, which would approve a membership agreement with Spotsylvania County and an amendment to the VRE Master Agreement. PRTC will also be requested to act at its November 5<sup>th</sup> meeting to approve and execute an amendment to its founding ordinance and to obtain certification from the Secretary of the Commonwealth that Spotsylvania County's membership in PRTC is effective February 15, 2010 and contingent upon all three agreements being in full force and effect on that date. PRTC must also forward the certification to the Spotsylvania County Board of Supervisors for entry into the minutes of a Board meeting by November 30, 2009.

Mrs. Bulova moved, with a second by Mr. Euille, to approve Resolution #2132 (copy attached).

Chairman Zimmerman asked how the recent election could affect potential Spotsylvania action. Mrs. Bulova stated that those board members that were friendly to VRE were reelected.

The commission then voted on the motion and it passed. The vote in favor was cast by Badger, Bulova, Euille, Fissette, Foust, Herring, Herrity, Hudgins, Hynes, Maller, McKay, Whipple and Zimmerman.

Additional VRE Locomotives. Mrs. Bulova stated that the Operations Board recommends approval of Resolution #2133, which would authorize VRE's CEO to modify the contract with Motive Power, Inc. to purchase three additional locomotives. This increases the total to 15 locomotives. The contract value would increase by \$10,997,829 plus a 10 percent contingency for a new total of \$60,579,992. Mrs. Bulova explained that the additional funds for two of the locomotives became available to VRE through Virginia's portion of the federal bonus obligation and other formula funds to be matched with funds from VRE's sale of Mafersa cars. Purchase of the third locomotive is dependent on approval by Congress of an earmark in the pending FY 2010 appropriations bill.

Mrs. Bulova moved, with a second by Senator Whipple, to approve Resolution #2133. The vote in favor was cast by commissioners Badger, Bulova, Euille, Fiset, Foust, Herring, Herrity, Hudgins, Hynes, Maller, McKay, Whipple and Zimmerman.

Closed Session -- VRE Operations/Maintenance Contract. There were no objections to waiting for Mr. Zehner and Mr. MacIsaac to arrive before entering into Closed Session. The commission would continue on with the other agenda items while they wait.

#### Status of I-66 Transit/TDM Study

Chairman Zimmerman explained that Corey Hill will also be coming directly from PRTC's meeting, where he is giving the same presentation. Since he has not yet arrived, it was suggested that this item be moved to the end of the agenda. There were no objections.

#### Status of New Regulations for the NVTC/PRTC Motor Fuels Tax

Mr. Taube reported that on January 1, 2010, distributors of motor fuels sold to retailers in the NVTC/PRTC districts will begin to pay a 2.1 percent tax and retailers will no longer collect a two percent tax on the retail pump price. NVTC and PRTC staff have met with officials of the Virginia Department of Taxation (TAX) to discuss plans for the transition. NVTC staff coordinated comments on a set of draft regulations circulated by TAX, but at this point, it is unclear how those comments will be incorporated. One concern is that significant motor fuel will escape taxation under the transition rules. Also, if the tax is not assessed on the actual sales price to retailers, but rather on a "cost price" paid by distributors (excluding transportation costs and certain administrative items), it could significantly reduce the yield to NVTC/PRTC. There is also the question

of how TAX will inform taxpayers during the transition. Depending on the final set of regulations, NVTC may wish to take some action at its December meeting.

Senator Whipple stated that it was Senator Saslaw's intent to bring more money to NVTC/PRTC through this legislative change. If this is not the case or if there are other problems, NVTC should convey its concerns to Senator Saslaw.

Delegate Ebbin arrived at 8:16 P.M.

In response to a question from Mr. Fisette, Mr. Taube explained that the legislation uses the word "sales price" while the TAX draft regulations use "cost price." Mr. Fisette said that this could produce a significant difference and should be considered a red flag. Mr. Taube stated that staff is monitoring this.

Mr. Maller wondered if this is the normal administrative process, when a final regulation of this importance is being promulgated that it is not available for review.

### Legislative Items

Mr. Taube reported that NVTC's Legislative Committee is scheduled to meet on November 10<sup>th</sup> to put together NVTC's state and federal legislative agenda for 2010. Chairman Zimmerman announced that he has appointed Mr. Euille to serve as the chairman of the Legislative Committee.

### WMATA Items

Mr. Taube reported that data on SmarTrip use through July, 2009 show strong growth among all local and regional transit systems. Loudoun County Transit customers lead the region with a 98.1 percent share. He also reported that ridership on WMATA is dropping below budget projects, so WMATA will need to find a way to fill the budget gap.

Mr. Taube also reported that NVTC co-sponsored a public forum with WMATA on October 21, 2009. Many NVTC commissioners attended along with other elected officials and members of the public. Chairman Zimmerman thanked everyone who attended. Mrs. Bulova stated that she was impressed with the large number of people from the disability community who attended the meeting, and appreciated hearing their comments.

Mr. Maller stated that WMATA has had technology issues, which has impacted service reliability and ridership. The incident that Montgomery County was faced with on November 4<sup>th</sup> with roadway signalization problems, which caused major traffic congestion, is not a short-term problem. He asked if it would impact WMATA ridership. Chairman Zimmerman stated that it will adversely impact Metrobus because the buses will get stuck in the same traffic caused by the signalization problem, but it should help Metrorail ridership.

In response to several questions from Mr. Maller, Mr. Taube stated that staff has compiled data on SmartBenefit usage on bus and rail by jurisdiction.

Delegate Ebbin asked if there is any explanation for the 98.1 percent SmarTrip card share of Loudoun County Transit. Chairman Zimmerman noted that most of the people using Loudoun County Transit are long haul commuters and probably many of them are receiving transit benefits.

#### Vanpool Incentive Program

Mr. Taube stated that NVTC is guiding a broad regional effort to initiate a new Vanpool Incentive Program that would increase vanpooling and allow WMATA to receive significantly more federal formula assistance to be shared among the participating regions. FAMPO has reserved \$100,000 of CMAQ funds available now for a design study. NVTC has applied to NVTA for \$100,000 CMAQ funds and PRTC has volunteered to provide that amount in FY 2010 if it will be restored in FY 2011. If NVTA acts positively at their meeting on November 12<sup>th</sup>, a RFP will be issued by FAMPO on November 13<sup>th</sup>. DRPT has agreed to serve as the project manager to ensure impartiality. The consultant selection committee has been chosen and should be ready to recommend award of contract for action by FAMPO and NVTC no later than January 7, 2010. The target for completion of design is no later than June 30, 2010.

#### Regional Transportation Items

Potomac River Ferry Demonstration. Mr. Taube stated that the feasibility study prepared for the Prince William County Board examined potential ferry service on the Potomac River. The study included trial runs with a ferry boat. The study concluded that service would be feasible but additional funding would be required. The Prince William Board will look for partners if it decides to proceed. Mrs. Bulova stated there was an interesting presentation given on this project at a Northern Virginia Regional

Commission meeting and she suggested that an abbreviated presentation be given at a future NVTC meeting.

Status of I-95/395 HOT Lanes Project. A memorandum from VDOT and DRPT consultants for an ongoing BRT operations study describes how the scope of that study will be altered to reflect reduced funding for the HOT Lanes project.

Transit Technologies–Bus Shelter Ads and Electric Power from Transit Customers. Mr. Taube stated that there are ads that change as they appear on bus shelter walls when activated by a camera tracking passengers' eyes. Also, technology is being tested in Tokyo, in which heavy foot traffic is being used to generate electricity for transit station lighting. Elements capable of generating electricity are embedded in floor tiles and covered by a mat. The pressure and vibration of commuter foot steps are converted to electricity. Mr. Taube reported that Fairfax County has applied for a grant to do something similar at Tysons Corner.

MWCOG Guaranteed Ride Home. Mr. Taube reported that the regional program to provide free rides for commuters who need to leave work for unexpected emergencies provided a record number of trips in FY 2009. A total of 3,096 trips (up slightly from 3,006 trips in FY 2008) were provided. With 11,000 persons registered, and each person eligible for up to four trips a year, the program is functioning as an effective "insurance policy" for commuters. The average cost to MWCOG is \$65 per trip.

Success of Virginia's Telework Day. The Governor's Office reported that teleworkers on the August 3<sup>rd</sup> Telework Day saved \$113,000, escaped driving 140,000 miles and avoided almost 76 tons of pollutants. A total of 4,057 persons participated statewide. If all eligible employees teleworked one day per week for a year, 602 million fewer miles would be driven, 360,800 tons of pollution avoided and \$807 million in commuting costs saved. This is equivalent to a \$1,822 average raise for each employee, plus saving 46 hours per person in commuting time.

Safe Trip I-95 Travel Time Website. A new website ([www.i95travelinfo.org](http://www.i95travelinfo.org)) uses real time vehicle data to allow travelers to view congestion and obtain travel times on the I-95 corridor from northern New Jersey through southern North Carolina.

Transit Call Centers and 511 Report. This report examines the status of transit systems interacting with the 511 transportation information systems promoted by the FCC.

Virginia Air Quality Improvements. The Governor's Office reports that between 1999 and 2009, Virginia experienced a 96 percent decrease in the number of days exceeding the national standard for ozone. In 1999 there were 76 "bad air days." In 2009 there were three (all in Northern Virginia). Northern Virginia's decline was from 48 days in 1999 to three in 2009. The Governor's Office media release attributed the improvements to several causes but did not mention public transit.

New Tysons Bus Services. Mr. Taube announced that the ribbon cutting ceremony for the new bus service from Woodbridge to Tysons Corner is scheduled for November 6<sup>th</sup>. This project is sponsored by the VDOT Mega Projects Office to help commuters during construction of the Beltway HOT Lanes and the Dulles Rail project. The buses will have four runs in each of the A.M. and P.M. peak periods. There will also be a bus that runs a loop around Tysons on 10-minute headways during lunchtime. Mr. Herrity observed that the buses from Woodbridge to Tysons will have WiFi capabilities. This should be looked at for long haul transit trips.

#### NVTC Financial Items for August and September, 2009

The financial reports were provided to commissioners and there were no comments.

#### Closed Session – VRE Operating/Maintenance Contract

Since VRE staff has not yet arrived from PRTC, commissioners discussed whether to recess for a short time or to convene the Closed Session. Without objection, the commission decided to go into Closed Session.

Chairman Zimmerman moved, with a second by Mrs. Bulova, the following motion:

Pursuant to the Virginia Freedom of Information Act (Section 2.2-3711A (1) of the Code of Virginia), the Northern Virginia Transportation Commission authorizes discussion in Closed Session for the purpose of consultation with counsel concerning the requirements of the Public Procurement Act and a matter involving the expenditure of public funds where competition and bargaining is involved and where discussion in public would adversely affect NVTC's financial interests and its bargaining position and negotiating strategy.

The vote in favor was cast by commissioners Badger, Bulova, Ebbin, Euille, Fisette, Foust, Herring, Herrity, Hudgins, Hynes, Maller, McKay, Whipple and Zimmerman.

The commission entered into Closed Session at 8:40 P.M. and returned to Open Session at 10:15 P.M. During the Closed Session Senators Whipple and Herring left and did not return. When Mr. Zehner and his staff arrived, they joined the discussion in Closed Session.

Chairman Zimmerman moved, with a second by Mr. McKay, 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 were 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 Badger, Bulova, Ebbin, Euille, Fisette, Foust, Herrity, Hudgins, Hynes, Maller, McKay and Zimmerman.

Mrs. Bulova moved to approve Resolution #2134 as amended and she read the entire resolution into the record. Mr. Herrity seconded. The resolution approves award of a five-year contract with Keolis Rail Services America for VRE operating and maintenance services and mobilization with a contract value of \$18,459,348 through June 30, 2011, and authorizes the VRE CEO to execute the contract on behalf of the commissions. The vote in favor was cast by Bulova, Ebbin, Euille, Fisette, Foust, Herrity, Hudgins, Hynes, Maller, McKay and Zimmerman. Mr. Badger abstained. (A copy of the resolution is attached.)

Chairman Zimmerman noted that Senators Whipple and Herring had to leave during the Closed Session but they both asked that the record reflect that if they had been present for the vote, they would have voted in favor of the resolution.

Adjournment

Chairman Zimmerman stated that the I-66 Transit/TDM Study update should be done at a future meeting. Mr. Hill stated that if commissioners or jurisdictional staff want individual briefings, he would be happy to meet with them.

Without objection, Chairman Zimmerman adjourned the meeting at 10:19 P.M.

Approved this 3rd day of December, 2009.

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Christopher Zimmerman  
Chairman

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William Euille  
Secretary-Treasurer