

MINUTES
NVTC COMMISSION MEETING – OCTOBER 7, 2010
NVTC CONFERENCE ROOM – ARLINGTON, VIRGINIA

The meeting of the Northern Virginia Transportation Commission was called to order by Chairman Hudgins at 8:13 P.M.

Members Present

Sharon Bulova
Kelly Burk
Barbara Comstock
John Cook
Thelma Drake
Adam Ebbin
Jay Fiset
John Foust
Mark R. Herring
Catherine Hudgins
Mary Hynes
Rob Krupicka (alternate for city of Alexandria)
Thomas Rust
Paul Smedberg
David F. Snyder
Steve Stombres (alternate for city of Fairfax)
Mary Margaret Whipple
Christopher Zimmerman

Members Absent

William D. Euille
Jeffrey Greenfield
Joe May
Jeffrey McKay

Staff Present

Rhonda Gilchrest
Scott Kalkwarf
Greg McFarland
Adam McGavock
Stephen Maclsaac (VRE)
Mark Roeber (VRE)
Kala Quintana
Jennifer Straub (VRE)
Rick Taube

Approval of the Agenda

Chairman Hudgins observed that VRE staff has not yet arrived and suggested that the commission wait to discuss VRE Items and the NVTC lease until VRE staff and Mr. MacIsaac can be a part of these discussions. There were no objections.

Senator Whipple moved, with a second by Mr. Smedberg, to approve the agenda. The vote in favor was cast by commissioners Bulova, Burk, Cook, Drake, Ebbin, Fisette, Foust, Herring, Hudgins, Hynes, Krupicka, Rust, Smedberg, Snyder, Stombres, Whipple and Zimmerman.

Minutes of the NVTC Meeting of September 2, 2010

On a motion by Senator Whipple and a second by Mrs. Bulova, the commission unanimously approved the minutes. The vote in favor was cast by commissioners Bulova, Burk, Cook, Drake, Ebbin, Fisette, Foust, Herring, Hudgins, Hynes, Krupicka, Rust, Smedberg, Snyder, Stombres, Whipple and Zimmerman.

WMATA Items

WMATA Governance. Chairman Hudgins explained that Resolution #2157 has been drafted for action. Hopefully, it addresses many of the issues and views, including DRPT's request to discuss WMATA Board seats. The resolution describes the reasons that NVTC has continued to appoint local elected officials to the WMATA Board. It emphasizes the need to provide adequate funding for WMATA in the immediate and long term. Governance and adequate funding should be discussed together and the public (and Board of Trade/MWCOG study group) should be educated on the issues through cooperative actions by state and local officials. Finally, it concludes that in such discussions NVTC's top priority will be to maintain sufficient representation for its local elected officials to ensure that customers' and taxpayers' interests are fully protected.

Mr. Cook announced that Delegate May is unable to attend this meeting but expressed a desire to speak on this issue and has asked that the issue be deferred. As a courtesy to Delegate May, Mr. Cook moved to defer this action. Delegate Rust seconded.

Mr. Zimmerman stated that he is sorry Delegate May is unable to attend. He also observed that Mr. McKay and Mr. Euille, both of whom are members of the WMATA Board, are also unable to attend and they all would have contributed to the discussion. However, the need to act at this meeting deals with the timing of the Board of Trade/MWCOG study group working on recommendations for WMATA governance. NVTC would like to go on record before the study group makes its recommendations. Mr. Zimmerman stated that he is scheduled to present comments to the study group tomorrow and it would be helpful for him to know NVTC's position. This resolution takes into consideration many of the views and it encompasses both sides of the issue.

Deferring action would deny NVTC the opportunity to weigh in on the discussion on WMATA governance. Mrs. Bulova observed that the resolution does not preclude additional discussions on governance issues and she does not see any harm in passing it now.

Delegate Ebbin asked if the Board of Trade/MWCOG study will be concluded before NVTC's next meeting. Mr. Zimmerman answered that they have said it will be completed by the end of October or early November.

Mrs. Drake observed that Delegate May is a senior member of NVTC and the chairman of the House Transportation Committee and she finds it distressing that NVTC would not defer another month out of respect for him. She tried to introduce a resolution for the past three months and it was deferred three times. She noted that deferring does not stop anyone from speaking to the Board of Trade/MWCOG study group. Chairman Hudgins stated that NVTC seeking action is not meant to disregard Delegate May's view. Mr. Foust observed that NVTC has many members and there will always be some members absent at its meetings. Delegate May did not attend last month's meeting either. With no disrespect to Delegate May, Mr. Foust stated that he sees no reason to defer.

Delegate Comstock arrived at 8:24 P.M.

Delegate Rust stated that he intends to support the motion to defer, but in the event that the motion does not pass, he asked if there is a timetable to have discussions with the commonwealth concerning seats on the WMATA Board. Chairman Hudgins replied that several commissioners met with Mrs. Drake prior to the NVTC meeting to begin an open dialogue. NVTC is also willing to meet with Secretary Connaughton to discuss this issue. Chairman Hudgins stated that many other agencies have submitted comments to the study group and it is important that NVTC do so.

Mr. Snyder asked a procedural question about whether commissioners could discuss the substance of the resolution. Mr. Cook called point of order and observed that there is a motion on the table to defer.

For the purposes of being able to discuss the resolution, Mrs. Bulova moved a substitute motion that NVTC adopt Resolution #2157. Mr. Snyder seconded.

Mr. Snyder stated that the most significant issues for WMATA are safety and reliability. It is clear to him that inadequate funding is a major cause of why the system needs improvement. The record clearly shows that there has been an absence of adequate state funding for WMATA. This issue is the most important one to him and the issue of WMATA Board seats is secondary. He asked that the last clause of the resolution be changed to read: "Be it further resolved that in discussions of WMATA governance and funding, NVTC's top priorities will be safety, reliability and maintaining sufficient representation for its local elected officials to ensure that customer's and taxpayers' interest are fully protected." Mrs. Bulova agreed to accept this language as part of her motion.

Mr. Cook stated that the language of the resolution has been watered down so that much of it is meaningless and NVTC is not addressing the issue that was brought up by the governor's request for representation on the WMATA Board. He stated that to sit here and say that we want funding from the commonwealth but not to vote on the governor's request or not to defer action so the Chairman of the House Transportation Committee can speak on the issue, seems to be tactics that will not lead to success. If NVTC wants funding from the commonwealth then NVTC should show interest in talking to the commonwealth. He stated that WMATA has serious issues, including funding and management, and we are resisting any change in governance because of parochialism. NVTC is pushing off a discussion that needs to happen. Mr. Cook went on to say that he was impressed with the WMATA interim general manager when he spoke to NVTC, but there is more that needs to be done. In his opinion, the WMATA Board needs transit officials. To put off that request, is not a constructive way to get the governor to the table for discussion.

Mrs. Bulova replied that the resolution does not say it is not honoring the governor's request. It speaks to the importance of local government representation, but it does not preclude any discussion of enhanced representation of the commonwealth.

Mrs. Drake stated that DRPT takes exception to many of the comments and facts found in the NVTC PowerPoint presentation. She provided a list of discrepancies referencing some of NVTC's own documents. Chairman Hudgins referred these to NVTC staff to review since she didn't see any discrepancies.

The commission then voted to accept the substitute motion. It passed with the vote in favor cast by commissioners Bulova, Burk, Fisette, Foust, Herring, Hudgins, Hynes, Krupicka, Smedberg, Snyder, Whipple and Zimmerman. Votes in opposition were made by commissioners Comstock, Cook, Drake, Ebbin, Rust and Stombres.

The substitute motion then became the main motion (to approve the resolution). It passed with the vote in favor cast by commissioners Bulova, Burk, Fisette, Foust, Herring, Hudgins, Hynes, Krupicka, Smedberg, Snyder, Whipple and Zimmerman. Votes in opposition were made by commissioners Comstock, Cook, Drake, Ebbin, Rust and Stombres.

Senator Whipple noted that no matter how this is resolved, the region would welcome advice from the commonwealth. Seldom if ever does DRPT staff attend WMATA Board meetings. Most jurisdictions send staff on a regular basis. This could lead to a closer relationship between all the agencies. Mr. Zimmerman stated that the region welcomes the commonwealth's interest in WMATA, but this issue is not about the commonwealth having a role but instead is about local representation not being removed. The Metrorail system is aging and major capital investments need to be made during a time when the commonwealth has retreated from funding transit. The region and the state need to get serious about WMATA funding if the Metrorail system is to function properly.

Chairman Hudgins requested a motion to transmit the resolution to the Board of Trade/MWCOG study group. Mr. Smedberg moved, with a second by Mrs. Hynes, to authorize staff to send the resolution to the Board of Trade/MWCOG study group. The vote in favor was cast by commissioners Bulova, Burk, Cook, Ebbin, Fissette, Foust, Herring, Hudgins, Hynes, Krupicka, Rust, Smedberg, Snyder, Stombres, Whipple and Zimmerman. Delegate Comstock and Mrs. Drake voted no. The motion passed.

Chairman Hudgins stated that in regards to Delegate Rust's earlier question regarding a timetable to discuss WMATA governance with the commonwealth, she has asked staff to work on a timetable and have a representative group sit down and discuss the issues. She did observe, however, that the manner in which this issue was started has been uncomfortable for everyone. It would have been better to first sit down and talk about WMATA governance instead of introducing a resolution demanding WMATA seats. Important issues of great concern are usually discussed first and a consensus is reached and then a resolution is passed. She is asking staff to come back with a timetable and a mechanism. Also she is asking that the commonwealth and NVTC sit down and begin discussions. This should happen soon, not in three months.

Vital Signs. Chairman Hudgins reported that this written report is a new tool for WMATA to measure its performance. A copy of the interim general manager's report was also provided. Mr. Snyder thanked NVTC for this information because it contains details about WMATA's response to NTSB's recommendations. He stated that he hopes there are periodic reports on this issue.

Other WMATA Issues. Chairman Hudgins stated that the maintenance work done over the Labor Day Holiday weekend was successful. WMATA had to close down most of the Red Line and do repairs. There were no complaints, no injuries, and it was completed on-time.

VRE Items

Report from the VRE Operations Board and VRE Chief Executive Officer. Ms. Mouchantaf announced that Mr. Zehner is out of town and has sent his regrets for missing the meeting. Ms. Mouchantaf stated that VRE ridership remains strong. Three of the top ten ridership days have occurred recently. On-time performance has improved. Unfortunately, VRE experienced train delays caused by the severe weather on September 30 and then had to cancel service the next day. If these two days had not happened, OTP would have been at 90 percent for September systemwide. She also reported that VRE conducted its annual Master Agreement survey on Wednesday, October 6, 2010. The results of this survey are used to determine the local subsidy levels. VRE, PRTC, NVTC and jurisdiction staff helped with the survey and 6,582 surveys were collected, which is over 300 more than last year.

Revisions to the VRE FY 2011 Budget. Mrs. Bulova reported that the VRE Operations Board recommends commission approval of Resolution #2156, which would approve the budget recommendations, with the addition of direction to VRE's CEO to

explore alternative financial support from VRE's traditional funding partners for the locomotive purchase. Mrs. Bulova explained that VRE ended FY 2010 with a positive budget variance of \$5.1 million. Fare revenues were greater than expected (\$3.1 million) and net costs were lower (\$2 million). The VRE Operations Board considered how to allocate the surplus at its September 17th meeting. The recommendations made are:

- 1) \$0.5 million to restore the balance of the Insurance Trust Fund to \$10 million;
- 2) \$2.5 million to acquire the 20th locomotive before the current option expires and to retain a uniformed fleet;
- 3) \$1.0 million to fund the final design of the third track to Spotsylvania which is a VRE contractual commitment;
- 4) \$1.1 million to fund a capital reserve account for new railcar procurement.

Mrs. Bulova explained that the vote by the VRE Operations Board on this recommendation was not unanimous. Some Operations Board members wished to return \$1.1 million to the jurisdictions as a credit against FY 2012 subsidy bills. Others wanted to use some of the funds to study efficiency improvements. Still others pointed out that VRE typically leverages its own financial resources by obtaining federal earmarks and/or state assistance for its capital investments, and should not squander its resources in this case without seeking to obtain similar financial support. In addition to adopting the reprogramming recommendation, the VRE Board recommended that the commissions authorize VRE's CEO to proceed with the purchase of the 20th locomotive to maintain a uniform fleet.

Mrs. Bulova moved, with a second by Mr. Zimmerman, to approve Resolution #2156 (copy attached). The vote in favor was cast by commissioners Bulova, Burk, Comstock, Cook, Drake, Ebbin, Fisette, Foust, Herring, Hudgins, Hynes, Krupicka, Rust, Smedberg, Snyder, Stombres, Whipple and Zimmerman.

NVTC Office Lease

Mr. Taube stated that as discussed extensively at NVTC's September 2nd meeting, NVTC must execute a lease for new offices at 2300 Wilson Boulevard. Negotiations with the landlord did not proceed as quickly as initially requested by the landlord, so the lease has not been executed on the terms discussed by the commission at the last meeting. Mr. Taube explained that all the outstanding issues have been resolved and Ellen Posner, attorney for Fairfax County, and Steve MacIsaac, VRE's legal counsel and county attorney for Arlington County, have reviewed the lease. NVTC staff is proceeding with collecting proposals and bids for new telephone and cabling systems, as well as required furniture and moving assistance.

Mrs. Bulova moved, with a second by Delegate Ebbin, to authorize the executive director to execute the lease and to purchase the related items and services associated with the move to the new office.

In response to a question from Mr. Cook, Mr. Taube explained that currently NVTC has eight employees. TAX auditors also use NVTC office space on a regular basis. The new lease is for 4,100 square feet at a cost of about \$40.50 per square feet for rent. Mr. Cook observed that his law firm pays only \$23 a square foot and asked why NVTC's proposed rent is so high. Mr. Taube explained that one of the criteria was to find office space near a Metrorail station. In response to a question from Mr. Cook, Mr. Taube stated no current NVTC employee regularly commutes by transit but two employees ride their bicycles to work. NVTC conducts multiple meetings where participants arrive by transit and NVTC employees use transit to go to other meetings. In response to a question from Delegate Comstock, Chairman Hudgins explained that NVTC is a transit organization and visitors and employees need to have access to the Metrorail system. Mr. Zimmerman further explained that NVTC is chartered to advocate the use of transit. It would be hard if NVTC did not model this and provide an option for employees and the public to use transit to go to and from NVTC.

Mrs. Drake stated that she is still concerned about the issue raised last month regarding an escape clause if NVTC were to consolidate with other agencies. Mr. Maclsaac stated that the lease does not explicitly address this issue, but it is covered by the provision that all applicable laws that NVTC must follow must apply to this lease. Also, there are extensive provisions dealing with subleasing and how NVTC could sublease if it no longer wanted or needed the space, as well as how the lease would be terminated by default. Chairman Hudgins noted that at last month's meeting Ms. Posner noted that the lease language need not be specific to cover this issue. Mr. Maclsaac agreed. Senator Whipple reported that she sits of the Governor's Reform Commission and the recommendation to consolidate NVTC with other agencies was dropped and it was not discussed or adopted by the Reform Commission at its last meeting.

In response to a question from Mr. Snyder, Mr. Maclsaac stated that the lease includes standard liability provisions. Mr. Snyder also asked if the per square foot price is competitive with other properties accessible to transit. Mr. Taube stated that NVTC's tenant's agent found that it is comparable and it is basically the same price NVTC would have to pay to stay in the current office space.

The commission then voted on the motion and it passed. The vote in favor was cast by commissioners Bulova, Burk, Comstock, Cook, Drake, Ebbin, Fiset, Foust, Herring, Hudgins, Hynes, Krupicka, Rust, Smedberg, Snyder, Stombres, Whipple and Zimmerman.

Proposed Government Reform Commission Recommendation to Consolidate NVTC/PRTC/NVTA

Chairman Hudgins reported that on September 10th, she, along with the chairmen of PRTC, NVTA and VRE, met with Secretary Connaughton to discuss the Government Reform Commission's possible recommendation to consolidate NVTC, PRTC and NVTA. Secretary Connaughton made no commitment to revise or delete his recommendation to the Reform Commission. Chairman Hudgins stated that based on Senator Whipple's earlier update about the Reform Commission not taking action on this recommendation, NVTC does not need to take any further action itself at this time.

NVTC and Other Items

Transaction 2040 Plan Update. Mr. Taube reported that the final contract is being reviewed by the consultant, Cambridge Systematics, Inc. NVTA acted to significantly reduce funding (to \$500,000 from \$1.2 million), which necessitated refining the scope of work. When the contract is signed, NVTC's Executive Director will proceed to execute the contract documents following legal counsel review.

Streetcar Coalition and Fairfax County I-66 Vienna Ramp TIGER II Grant Applications. Mr. Taube stated that NVTC staff submitted the pre-applications and the full applications by the deadlines. No announcement has been made yet of grant awards.

I-95/395 HOT Lanes. NVTC wrote Secretary Connaughton requesting an opportunity to meet to address several issues in order for the region to unify its support of the project. A meeting was held with representatives from Arlington, Alexandria and Fairfax County.

Pentagon Transit Center Security Issues. As directed at the last meeting, NVTC Chairman Hudgins sent a letter to the Pentagon officials thanking them for their responsiveness and cooperation to NVTC's concerns. Mr. Taube reported that the canopy is currently being installed, which will help shelter transit users.

Multi Region Vanpool Incentive Program. Federal and state funds are now available in approved grant agreements. NVTC is managing these funds on behalf of itself and FAMPO/GRWRC. The contract has been executed with VHB, Inc. and the notice to proceed has been issued. DRPT staff will serve as project manager to ensure regional impartiality. Two focus groups of vanpool operators were conducted in late September as a prelude to an extensive online survey.

Governor's Transportation Conference. The conference will be held December 8-10, 2010 at the Hotel Roanoke. The conference is titled, "Reforming and Revitalizing Transportation in Virginia."

VDOT Audit. Governor McDonnell announced that the audit uncovered \$1.45 billion available for projects in the six-year program

Regional Motor Fuel Tax Allocation Issues

Mr. Taube reported that NVTC and jurisdiction staffs have discussed continuing concerns about the accuracy of allocations among jurisdictions of the new 2.1 percent motor fuels tax on distributors. In reviewing the monthly reports since the new tax was levied (January 2010), there are strong indications that taxpayers are not correctly specifying the jurisdictions in which the fuel is sold. On August 23rd NVTC, PRTC and local staff attending a meeting in Richmond with TAX officials to reiterate the concerns and try to agree on a cooperative approach to solve the problem. Acting Commissioner Burns and several senior TAX officials attended. They heard the concerns and agreed to cooperate to address them. A follow-up session was held at PRTC to examine materials developed by commission staffs that document the problem. TAX officials are willing to use this material as well as their own techniques to identify the problems and address them more quickly than their traditional one to three year audits.

Among the approaches recommended by commission staff is collecting information from retail gas station owners about the distributors, to use a cross check against tax forms filed by the distributors, in order to clearly establish the correct jurisdictions to which to credit the tax revenues. NVTC is obtaining the current retail locations from its jurisdictions for this purpose. While tax officials believe this approach does not jeopardize required confidentiality and they are willing to use it as a cross check with distributors, they are currently unwilling to use it as a cross check with the retailers, citing the fact that they have not done it before and have limited staff. Actually, in Falls Church (one of the problem jurisdictions) there are only seven retailers. NVTC staff hopes to persuade TAX officials to alter their position on this approach, even if it is simply to allow NVTC staff to gather the information.

NVTC Financial Items for August, 2010

Commissioners were provided with the financial items and there were no questions.

Closed Session

Chairman Hudgins stated that the Executive Committee is not ready to bring a recommendation to the commission for discussion in closed session regarding the executive director's annual performance review. She stated that it will be deferred to the November meeting. There were no objections.

Adjournment

On a motion by Mr. Smedberg and a second by Mr. Snyder, the commission unanimously agreed to adjourn. The vote in favor was cast by commissioners Bulova, Burk, Comstock, Cook, Drake, Ebbin, Fisette, Foust, Herring, Hudgins, Hynes, Krupicka, Rust, Smedberg, Snyder, Stombres, Whipple and Zimmerman. Chairman Hudgins adjourned the meeting at 9:15 P.M.

Approved this fourth day of November, 2010.

Catherine Hudgins
Chairman

Mary Hynes
Secretary-Treasurer