

MINUTES
NVTC COMMISSION MEETING – NOVEMBER 5, 2020
Via Electronic Participation
Public Streaming via YouTube

The meeting of the Northern Virginia Transportation Commission was called to order by Chair Cristol at 7:01 P.M.

Members Present via Electronic Participation

Canek Aguirre
Walter Alcorn
John J. Bell
Elizabeth Bennett-Parker
Katie Cristol
Adam Ebbin
Eileen Filler-Corn
John Foust
Libby Garvey
Paul Krizek
Jeff McKay
David Meyer
Jennifer Mitchell (Alternate, Commonwealth of Virginia)
Dalia Palchik
David Reid
Paul Smedberg
David Snyder
Dan Storck (Alternate, Fairfax County)
Richard Sullivan
James Walkinshaw

Members Not Present

Matt de Ferranti
Matt Letourneau
Michael Turner

Staff Present via Electronic Participation

Kate Mattice, Executive Director	
Matt Cheng	
Andrew D’huyvetter	
Allan Fye	
Rhonda Gilchrest	Aimee Perron Seibert
Scott Kalkwarf	Steve MacIsaac
Ben Owen	Rich Dalton (VRE)
Zachary Smith	Mark Schofield (VRE)
Melissa Walker	Greg Potts (WMATA)

Opening Remarks

Chair Cristol welcomed everyone to the November 5 NVTC meeting. She stated that given the ongoing COVID-19 public health emergency, the meeting is being conducted electronically. This is possible because the governor signed into law on April 22, 2020 a legislative amendment to the budget bill to allow public bodies to meet electronically without a physical quorum present to discuss or transact the business statutorily required or necessary to continue operations of that public body. NVTC staff followed the procedures and guidelines in the legislation to give notice to the Commission, staff and the public.

Chair Cristol reviewed the procedures and instructions for the electronic meeting, including that all votes will be conducted by roll call vote. The only visual component of the meeting is the presentation slides which are being shown on Webex for Commissioners and on YouTube livestream for the public.

Commission Secretary Rhonda Gilchrest then called the roll and confirmed a quorum was present.

Chair Cristol noted that there is one change to the Agenda. VRE staff has requested that the action pertaining to the VRE agreement with the City of Manassas Park be removed from the Agenda and it is anticipated that it will be brought back for action at the December meeting. She then reviewed the action items and proposed the two Commuter Choice actions be voted on as a block vote. She also reminded Commissioners that there is a Closed Session at the end of the meeting.

Consent Agenda

Chair Cristol stated that there are two items on the Consent Agenda:

- A. Approve Resolution #2422: Finding Need to Conduct the November 5, 2020 NVTC Meeting Electronically
- B. Authorize the Executive Director to Send the NVTC Report on Virginia's 3% Cap on the Growth in Operating Assistance Payments to WMATA to the Chairs of the Virginia House Appropriations and Senate Finance and Appropriations Committees

Before the vote, Ms. Mattice reported that no public comments were received this month.

Mr. Bell moved, with a second by Mr. Ebbin, to approve the Consent Agenda. The vote was conducted by a roll call vote and the motion passed. The vote in favor was cast by Commissioners Aguirre, Alcorn, Bell, Bennett-Parker, Cristol, Ebbin, Filler-Corn, Foust, Garvey, Krizek, McKay, Meyer, Palchik, Reid, Smedberg, Snyder, Sullivan and Walkinshaw.

Minutes of the October 1, 2020 NVTC Commission Meeting

Mr. Ebbin moved, with a second by Mr. Reid, to approve the minutes of the October 1, 2020 meeting. The vote was conducted by a roll call vote and the motion passed. The vote in favor was cast by Commissioners Aguirre, Alcorn, Bennett-Parker, Cristol, Ebbin, Filler-Corn, Foust, Garvey, Krizek, McKay, Meyer, Palchik, Reid, Smedberg, Snyder, Sullivan and Walkinshaw. (Mr. Bell did not participate in the vote.)

Recommended Delay in Approval of the FY 2022 NVTC General and Administrative Budget

Chair Cristol stated that the Commission is being asked to approve Resolution #2423, which would authorize relief from NVTC's budget approval deadlines for the FY 2022 General and Administrative Budget. Ms. Mattice explained that according to the NVTC By-Laws, the executive director is to submit a proposed budget for the next fiscal year to the Executive Committee for approval prior to January, which is then submitted to the Commission for action by its January meeting. She explained that as a majority of NVTC's operating revenues come from state revenues received by our jurisdictions, NVTC relies on the projected DRPT funding in determining our budget. This year, because of economic uncertainties related to the COVID crises and changes in the state budget, staff expects updated DRPT projections in early December. By waiting until after December, NVTC staff will be able to use these updated projections to develop a budget with more certainty as to the state aid available to fund our operations.

Ms. Mattice explained that with the Commission's approval, NVTC staff would provide the FY 2022 General and Administrative Budget to the Executive Committee early in the new year and to the full Commission for approval no later than the March 2021 Commission meeting, which is well before the start of the fiscal year (July 2021).

Mr. Sullivan moved, with a second by Ms. Filler-Corn, to approve Resolution #2423 (copy attached). The vote was conducted by a roll call vote and the motion passed. The vote in favor was cast by Commissioners Aguirre, Alcorn, Bell, Bennett-Parker, Cristol, Ebbin, Filler-Corn, Foust, Garvey, Krizek, McKay, Meyer, Palchik, Reid, Smedberg, Snyder, Sullivan and Walkinshaw.

Washington Metropolitan Area Transit Authority

Report from Virginia WMATA Board Members. Mr. Smedberg reported that on October 8 the WMATA Board received an update on WMATA's Capital Improvement Program. WMATA is projected to invest nearly \$1.9 billion in FY 2021 capital projects, which includes this past summer's Platform Improvement Project at the Vienna, Dunn Loring, West Falls Church and East Falls Church Stations on the Orange Lines. The remaining FY 2021 and FY 2022 capital program will continue to focus on safety and state of good repair projects including design support for replacing the automatic train control room and the Yellow Line Tunnel, Phase 3 and 4 of the Platform Improvement Project, rehabilitating aerial Metrorail structures, replacement of the Rockville Metrorail station canopy and a pilot project to enhance the tunnel ventilation system.

Mr. Smedberg also noted that the WMATA Finance and Capital Committee received an update on the FY 2022 budget. WMATA staff project a potential funding gap of \$167 to \$345 million for FY 2022. This is in addition to the gap WMATA is facing for the remainder of FY 2021. The range in the potential FY 2022 gap is due to possible scenarios about ridership recovery, what service changes are included in the FY 2021 budget, and the level of proposed jurisdictional subsidy for WMATA. The General Manager will release his proposed budget in late November. He stated that WMATA is taking a very conservative approach to the budget and sensitive to the challenges the jurisdictions are facing as well.

Mr. Smedberg stated that WMATA received a clean audit for FY 2020, and two findings that were reported in the FY 2019 financial statements and Uniform Guidance audit were addressed by WMATA.

Mr. Smedberg stated that the public comment period on the FY 2021 budget closed on October 19. The WMATA Board is anticipated to take action on the advertised FY 2021 changes on November 19. CARES Act funding is anticipated to be exhausted by January 2021. These proposed changes are required to balance the budget for the remainder of FY 2021. These changes include reductions in rail service and bus service, as well as additional actions taken by management to close a \$212 million budget gap. In addition, Metrobus service would reinstate fares on January 1, 2021.

Report from the Chair of the NVTC WMATA Committee. NVTC WMATA Committee Chair Canek Aguirre reported that on October 29 the WMATA Committee received an update on COVID-19 and reviewed the chapter on Strategies to Reduce Costs and Improve Efficiencies and the chapter on the Uses of Virginia's Dedicated Capital Fund of the 2020 Annual Report on the Performance and Condition of WMATA. The same version of the report the committee discussed was provided to Commissioners in their meeting materials, but staff's presentation will incorporate the WMATA Committee's feedback.

Mr. Aguirre stated that the committee expressed general support for the recommended strategies, but also had a good discussion about topics outside the scope of the report such as equity and Metrobus. As the committee develops its workplan for 2021, he would like to see the committee continue those discussions with staff and the WMATA Board members, as appropriate. Staff are updating the data chapters of the report that will be provided to the Commission along with the full report in December. He announced that the next WMATA Committee meeting is scheduled for December 16 to review the WMATA GM/CEO's Proposed FY 2022 Budget and discuss a draft letter of comments.

Ms. Mattice gave a quick overview of the background of the report for the benefit of new Commissioners. In 2018 the General Assembly established the dedicated capital funding for WMATA and also directed NVTC to prepare an annual report on the performance and condition of WMATA. In addition to reporting the annual uses of the dedicated capital fund and reporting financial and operational performance data from WMATA, the legislation also directed NVTC to recommend strategies to WMATA to reduce the annual growth in operating costs and improve operational efficiency.

Ms. Mattice stated that the 2020 report is the third report from NVTC to the governor and General Assembly. In its first two reports, NVTC focused on opportunities to increase ridership by making the system easier through fare products, reducing costs through competitive contracting, and advancing non-fare revenues such as joint development. In its last two reports, NVTC has recommended dozens of strategies to WMATA to rebuild ridership and improve efficiency on bus and rail, increase non-fare revenues, and control cost escalation and enhance efficiency of the workforce.

Ms. Mattice stated that many of these strategies pertain to attracting new and retaining current riders by improving weekend rail service, development and expanding fare passes and other parking pass products, developing the next generation of fare collection technology, and making capital investments to improve rail and bus reliability. Several strategies aim to improve efficiency of Metrobus by reducing fare evasion, implementing pilot programs and other efforts to increase the speed of metrobus operations, and leveraging the expertise of local and regional partners to implement the bus transformation project recommendations.

Ms. Mattice stated that previous strategies also recommended that WMATA increase non-fare revenue from joint development, real estate, parking, and advertising, and that WMATA control cost escalation of the workforce by using the 3% cap on the annual growth in operating subsidies as a tool during labor negotiations and the annual budget development process. These previously recommended strategies are included in this 2020 annual report.

Mr. D'huyvetter gave a brief presentation on the new strategies of the report and the feedback from the WMATA Committee, which will be incorporated along with any comments from Commissioners, into the report. Staff will present the final report to the Commission for approval at the December 3 meeting.

Mr. D'huyvetter stated that this year's report includes language reiterating the impacts of the COVID-19 pandemic on WMATA's budget and ridership, emphasizes the recommendation to improve bus service overall, includes additional narrative on reliability and performance data and continuing to use other vehicles to communicate concerns or support to WMATA. He explained that earlier in the year, the WMATA Committee directed staff to include a COVID-19 context in the report. The report now extensively addresses the impacts of the pandemic to WMATA, CARES Act funding, and the potential impacts if no more federal aid is provided. He then reviewed the proposed strategies to reduce the growth in costs and improve efficiency at WMATA, which are strategies reconstructed from last year's report, with several new strategies such as communicate and encourage a fare return to transit post pandemic; adapt rail service to match demand during the pandemic and the recovery phase; the FY 2020 dedicated funding and capital program; and pre-pandemic performance data. Mr. D'huyvetter stated that staff will be updating the remaining chapters (Safety and Financial Performance) when the National Transit Database (NTD) data is available, as well as incorporating comments by the WMATA Committee and Commissioners. The full report will be presented at the December meeting.

Chair Cristol thanked staff for that presentation and noted that the report is responding to specific information being requested by the General Assembly. She opened the discussion up for Commissioner questions. Mr. Bell observed that the impacts of COVID-19 on transit are a nationwide problem and asked if WMATA is working with other transit agencies to present a

united front to seek federal funding. He noted that transit is a key component of an economic rebound strategy. Mr. Smedberg agreed and stated that this region is very fortunate to have a supportive federal delegation for Virginia, the District and Maryland. WMATA is working collaboratively with other large transit systems through the American Public Transit Association (APTA) to promote transit and seek federal aid.

Mr. Meyer stated that the impact is not just where transit operates, but other regions across the country are impacted, including those states where railcars and other components are manufactured. Ms. Mattice added that contractors, consulting firms and other transit related businesses are impacted.

Ms. Garvey asked for scenarios or options if the federal government does not provide additional CARES Act funding. Mr. Smedberg stated that for FY 2021 alone WMATA would need approximately \$210 million. Mr. Meyer stated that worst case scenario if there were layoffs of any magnitude there could be some short- and long-term safety implications. Mr. Smedberg agreed and stated it would be challenging. For a bigger picture, as the region comes out of the pandemic, the questions remains what will transit look like in the future, especially with increased teleworking.

Mr. Snyder expressed his support for WMATA's FY 2021 budget amendments and asked when WMATA will begin a dialogue with NVTC and its jurisdictions regarding contingency planning for the FY 2022 budget. From the City of Falls Church's perspective, there won't be more money for WMATA and there could actually be less. Mr. Smedberg stated that the WMATA General Manager will present his preliminary FY 2022 key budget issues to the WMATA Board on November 19. WMATA staff could then have a more thoughtful discussion with the jurisdictions. Mr. Snyder requested an update at the December 3 meeting. Chair Cristol expressed her appreciation to both Mr. Snyder and Mr. Letourneau for being clear in past meetings that the gap in the budget has to be solved on the expenditure side and not by jurisdictional subsidies.

Commuter Choice Program

Chair Cristol reminded Commissioners that she is proposing a block vote on the two action items at the end of the presentations and discussion. She then asked Mr. Snyder to give his report.

Report from the Chair of the Program Advisory Committee. Mr. Snyder stated that the Commission was briefed on the Commuter Choice program and the staff recommendations over the last several meetings. The Commission is being asked to approve Resolution #2424, which would approve the policy changes governing the Commuter Choice program in both corridors, I-66 Inside the Beltway and I-395/95, and Resolution #2425, which would adopt the Technical Evaluation Process for the Commuter Choice on the I-395/95 Corridor Program and authorize the executive director to issue a call for projects for I-395/95 Corridor Round Two (FY 2022-2023). He asked staff to speak to the requested actions.

Ms. Mattice explained that NVTC staff would like to implement four policy changes to the Commuter Choice program, which will ensure that NVTC is encouraging and supporting project

proposals that demonstrate clear, robust benefits to toll payers in the I-66 Inside the Beltway and I-395/95 corridors. She reviewed the changes:

- Establishing a framework for supporting more complex infrastructure projects within the structure of Commuter Choice, particularly around the program’s funding obligation and expenditure deadlines;
- Setting a minimum amount for Commuter Choice funding awards commensurate with funding recipients’ responsibilities under the program;
- Narrowing Commuter Choice support for transportation demand management (commuter information and incentive) campaigns to strategies that can be targeted exclusively to toll payers and with directly measurable outcomes; and
- Requiring upfront executive-, board- or council-level support documentation for proposed projects that depend on a third party for successful implementation.

Ms. Mattice stated that for the I-395/95 program, the Commission is being asked to approve the call for projects, affirming the use of the previously approved I-66 technical evaluation process for this next round. She stated that NVTC anticipates full funding (approximately \$15 million) for this program this coming year as a result of the Commonwealth’s agreement with Transurban.

Ms. Mattice also noted that staff presented the proposed list of Initial Round Four Commuter Choice Program of Projects for the I-66 Corridor to the Commonwealth Transportation Board (CTB) on October 20. The CTB was supportive of the Commission’s conservative approach and will likely take action on the program of projects at its December meeting.

Mr. Snyder reiterated the hope that additional funding will be available for the I-66 Commuter Choice program to move forward with funding the secondary list of already evaluated projects. Chair Cristol thanked Mr. Snyder for his leadership as chair of the Program Advisory Committee and for the work of the entire committee. In response to a question from Chair Cristol, Ms. Mattice explained that the support documentation for proposed projects could be a letter of support such as the letter from WMATA GM/CEO Paul Wiedefeld indicating WMATA’s support for the new entrance at the McLean Metrorail station.

Chair Cristol again asked if there were any objections to approving both Commuter Choice actions items as a block. There were none.

Mr. Snyder moved, with a second by Mr. Meyer, to approve the following actions:

- Approve Resolution #2424: Approve Policy Changes Governing the Commuter Choice Program in Both Corridors, I-66 Inside the Beltway and I-395/95
- Approve Resolution #2425: Adopt the Technical Evaluation Process for the Commuter Choice on the I-395/95 Corridor Program and Authorize the Executive Director to Issue a Call for Projects for I-395/95 Corridor Round Two (FY 2022-2023)

The vote was conducted by a roll call vote and it passed unanimously. The vote in favor was cast by Commissioners Aguirre, Alcorn, Bell, Bennett-Parker, Cristol, Ebbin, Filler-Corn, Foust, Garvey, Krizek, McKay, Meyer, Palchik, Reid, Smedberg, Snyder and Sullivan. (Mr. Walkinshaw did not participate in the vote.)

Legislative Update

Report from the Chair of the Legislative and Policy Committee. Mr. Meyer stated that the Legislative and Policy Committee met last month to review and discuss NVTC's priorities for the 2021 Legislative and Policy Agenda. The 2020 General Assembly's transportation omnibus bill included many structural changes to how transportation is funded in the Commonwealth benefitting the region's local transit operators, WMATA and VRE. This year, NVTC's Legislative and Policy Agenda is focused on protecting those programs and revenue streams at the state level. At the federal level, NVTC will seek continued support for transit, especially given the ongoing impact of COVID-19 on operating revenues.

Mr. Smith then gave a presentation on the proposed 2021 Legislative and Policy agenda. He explained that the agenda includes broad priorities and not necessarily legislative asks but can be used to tailor NVTC's position as legislation is introduced. NVTC's state priorities are focused on:

- Protecting Existing Transit Programs and Funding
- Connecting Riders to Opportunity through Transit
- Continuing Support for the Transforming Rail in Virginia Program
- Restoring Funding for the Northern Virginia Transportation Authority (NVTA)
- Preserving NVTC Stewardship of NVTC Programs
- Updating Remote Public Meeting Requirements

Mr. Smith then reviewed NVTC's federal priorities:

- Reauthorizing Dedicated Federal Funding for WMATA
- Continuing Support for COVID-19 Relief for Transit Agencies
- Reauthorizing the FAST Act and Fix the Highway Trust Fund
- Identifying Federal Funding and Financing for Long Bridge
- Continuing Support for Commuter Tax Benefits

Mr. Sullivan asked about the remote public meeting requirement priority. Mr. Smith stated that other agencies are taking the lead on remote meeting issues and NVTC is not proposing a specific legislative ask at this time. Ms. Mattice stated that several Commissioners have expressed interest in this issue. She stated that during the pandemic, NVTC has had almost 100% Commissioner participation with the virtual meeting format. Ms. Bennett-Parker stated that for those elected officials who serve on multiple boards, including NVTC and VRE, she would like to see the requirements change so that the number of times a member can participate remotely be determined by that particular body. For VRE, which is represented by a large geographic region, board members can travel a great distance to get to the meetings.

Mr. Sullivan stated that he wonders if the era of "zoom calls" will continue after the pandemic is over. There are clear benefits, as well as downsides, to conducting virtual meetings. Mr. Krizek sees it as two issues – remote meetings affecting quorum requirements and allowing a board to make the determination as to how many times a member can attend remotely without affecting quorum. Mr. Ebbin stated that likely any proposed legislation would be referred to the FOIA

Advisory Council for study. Ms. Perron Seibert stated that she has talked with the FOIA Advisory Council staff on this issue. She stated that there might not need to be a study resolution because council staff believe they can go ahead and study it under the 2021 interim study. Mr. Ebbin suggested the ask should be specific to the FOIA Advisory Council.

Ms. Garvey stated that she is supportive of the concept that a body or agency should decide how many times a member can participate remotely. Mr. Bell stated that as NVTC explores this issue, it is important to not lose sight of real-time public involvement and adequate notice.

Mr. Reid asked if there is a quantifiable figure as to how much NVTA funding needs to be restored. Mr. Smith stated that NVTA's Legislative Agenda is seeking \$32 million. Mr. McKay stated that the number is a little higher than what was originally determined, but it is meant to incorporate the lack of increased funding that was supposed to come to the region. Mr. Reid noted that the Northern Virginia delegation has been diligently working to restore NVTA funding.

Mr. Meyer stated that for the "Preserving NVTC Stewardship of NVTC Programs" state priority, he wants to make sure new Commissioners have the background information about the work NVTC does and to fully understand the differences between NVTC and other agencies, such as NVTA, in case any consolidation legislation is introduced. Regarding "Connecting Riders to Opportunity through Transit," Mr. Meyer noted that the City of Fairfax has its own bus system and when COVID-19 hit ridership plummeted. To make operations safer for operations, one of the initiatives included suspending fares. Ridership then stabilized to about 550 passengers a day. These riders had no other options to get to work. This demonstrated to the city that there is a baseline of ridership, particularly on bus, that is very much dependent on transit. It is a socio-economic issue. He would like the City of Fairfax make the free fares permanent. The transit systems exist for everyone, but it is critical for those that don't have other transit options.

Mr. McKay stated that NVTC participated in a study about 10 years ago looking at the consolidation issue. It was a lengthy and detailed study that pointed out the practical reasons why consolidation was not a good idea. He stated it might be worthwhile for staff to pull the study out of its files. Ms. Mattice stated that the study can be found on NVTC's website. Mr. Smedberg stated that the legislation that elevated NVTC with the Commuter Choice program would also be a good reference.

Mr. McKay stated that he applauds the City of Fairfax's willingness to look at free fares. Fairfax County staff is looking at the economic impact of doing something similar. It is a relevant issue as the region looks to the future to promote transit. Even if it was not permanent, it would help bring back riders to transit in the post pandemic recovery phase. Ms. Garvey expressed her support of a regional discussion of providing free fares. Ms. Mitchell stated that a program was established in the omnibus transportation bill called the Transit Ridership Incentive Program (TRIP) that can allocate funds for establishing regional routes of significance and support of low-fare or no-fare programs. DRPT is in the process of developing guidelines and anticipates applications will be available late spring, with funding in FY 2022.

Annual Joint NVTC-PRTC Legislative Briefing. Ms. Mattice announced that the annual Joint NVTC-PRTC Legislative Briefing is scheduled for December 7 at 9:00 a.m. The virtual event will provide an overview of federal and state issues affecting transit in Northern Virginia. Secretary

of Transportation Shannon Valentine is participating as the keynote speaker. Senator Warner and Senator Kaine have also been invited to participate.

Virginia Railway Express

VRE CEO Report and VRE COVID-19 Response. Mr. Dalton reported that VRE continues to operate at reduced service levels. He reviewed the measures VRE is taking to address the COVID-19 public health emergency, which include enhanced measures to be ready to welcome back riders. He stated that riders can view capacity of each train using VRE's train utilization webpage. Mr. Dalton reported that VRE is seeing incremental increases in ridership. For October, there were 1,400 daily trips. On-time performance for the month of October was 94% systemwide.

Draft 2021 VRE Legislative Agenda. Ms. Bennett-Parker reported that the draft 2021 VRE Legislative Agenda is provided as an information item and will be brought back for Commission approval at the December 3 meeting, following action taken by the Operations Board at its November 20 meeting. The VRE Legislative Agenda includes state and federal legislative priorities. VRE's state priorities include:

- COVID-19 Pandemic Response
- State Capital Funding
- Virginia Passenger Rail Authority
- Meetings Held Through Electronic Communications Means
- NVTA Funding
- Virginia Transit Association
- Transportation Authorities

Ms. Bennett-Parker then reviewed VRE's federal funding, legislative and regulatory issues:

- Surface Transportation Reauthorization
- Surface Transportation Board (STB) Authority
- Amtrak On-Time Performance
- Federal Grant Programs
- USDOT Rulemaking
- Liability Insurance Reform
- COVID-19 Relief

Virginia Passenger Rail Authority Agreements. Ms. Bennett-Parker reported that VRE staff have been working with DRPT staff, on behalf of the Virginia Passenger Rail Authority (VPRA), to develop an operating and access agreement allowing VRE to operate on right-of-way owned by the Commonwealth, as well as a passenger rail improvements and funding agreement for VRE contributions to the Transforming Rail in Virginia program. It is anticipated that the Operations Board will take action at its November 20 meeting, with Commission action requested at the December 3 NVTC and PRTC meetings. She asked Mr. Dalton to give more details about the proposed agreements.

Mr. Dalton gave a presentation on the rail operating agreements and VRE Chief Financial Officer Mark Schofield gave a presentation about the funding agreement. Mr. Dalton offered one-on-one briefings for Commissioners with VRE and DRPT staff prior to the December 3 meeting.

Mr. Snyder asked if there is any financial exposure to NVTC or any debt issuance/financial implication to this agreement. Mr. Schofield explained that VRE is not a legal entity and is co-owned by NVTC and PRTC. The Commissions would be the entities entering into the agreement with the Virginia Passenger Rail Authority, as well as doing any debt issuance. It would not revert to the jurisdictions. Mr. Snyder stated that he will want to see the agreement in writing and/or with NVTC legal counsel Steve MacIsaac that NVTC is not exposing the jurisdictions to any financial short- or long-term risk. He also asked if there is any danger that the funding would be pulled from other sources of funding that go to the jurisdictions. Mr. Schofield gave more information about the C-ROC fund, which is not a jurisdictional funding source.

DRPT Report

DRPT Director Mitchell encouraged Commissioners to read the written monthly DRPT Report. She stated that DRPT presented a revised Six-Year Improvement Program (SYIP) to the Commonwealth Transportation Board, with action expected at the December CTB meeting. For FY 2021, DRPT only allocated two quarters of funding in incremental amounts until the revenue forecasts were completed. DRPT expects the FY 2022 forecasts will be available in December. For the remaining FY 2021, DRPT will be allocating a total of \$173.6 million to NVTC for the yearly operating and capital support of WMATA. This is an increase of \$14.6 million over last year's amount. For statewide operating funds, DRPT will allocate \$101.6 million, of which \$29 million is for Northern Virginia transit systems.

Ms. Mitchell stated that there was an inaugural meeting of the Virginia Passenger Rail Authority (VPRA) and the next meeting will be held in December to present a draft budget and move forward on policy and procedures. An executive director search is underway. The VPRA is expected to meet monthly.

Executive Director Report

Ms. Mattice encouraged Commissioners to read her Executive Director Newsletter. She reported that a number of staff led sessions or participated in panels at a Virginia Chapter of the American Planning Association Conference earlier this month where they highlighted the work NVTC is doing with the Commuter Choice program and the Route 7 BRT project. She also noted that she participated in a virtual conference of the Metropolitan Planning Organization in Tampa, Florida, regarding express lanes and dynamic tolling. She was able to share Northern Virginia's successes with the Commuter Choice program.

Ms. Mattice reminded Commissioners again about the December 7 Joint NVTC-PRTC Legislative Briefing. Approximately 100 people have signed up so far for this virtual event.

Ms. Mattice also reported that the majority of staff continue to work from home, however, starting today several employees returned to the office to work on a limited basis (one or two days a week).

Ms. Mattice noted that the Financial Report for September 2020 was provided to Commissioners in their meeting materials. There were no questions from Commissioners.

Closed Session

Chair Cristol reviewed the Closed Session procedures for the benefit of the listening public. She stated that the livestream will resume when the committee returns to Open Session. Ms. Cristol moved, with a second by Mr. Sullivan, the following motion to go into Closed Session:

Pursuant to the Virginia Freedom of Information Act (Section 2.2-3711.A.1 of the Code of Virginia), the Northern Virginia Transportation Commission moves to convene a Closed Session to discuss personnel matters.

The vote was conducted by a roll call vote and the motion passed. The vote in favor was cast by Commissioners Aguirre, Alcorn, Bell, Bennett-Parker, Cristol, Ebbin, Filler-Corn, Foust, Garvey, Krizek, McKay, Meyer, Palchik, Reid, Smedberg, Snyder, Storck and Sullivan. (Mr. Walkinshaw did not participate in the vote and Mr. Storck voted in his absence).

The Commission entered into Closed Session at 9:06 p.m. in the Closed Session. The Commission invited Ms. Mattice to join the Closed Session part way through the session. The Commission returned to Open Session at 9:40 p.m. Mr. Ebbin left the meeting during the Closed Session.

Chair Cristol moved, with a second by Mr. Sullivan, 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 was conducted by a roll call vote and the motion passed. The vote in favor was cast by Commissioners Aguirre, Alcorn, Bell, Bennett-Parker, Cristol, Filler-Corn, Foust, Garvey, Krizek, McKay, Meyer, Palchik, Reid, Snyder, Sullivan and Walkinshaw. (Mr. Smedberg did not participate in the vote).

Chair Cristol moved, with a second by Mr. Sullivan, to authorize an amendment to the executive director's contract to reflect the compensation adjustment discussed in Closed Session. The vote was conducted by a roll call vote and the motion passed. The vote in favor was cast by

Commissioners Aguirre, Alcorn, Bell, Bennett-Parker, Cristol, Filler-Corn, Foust, Garvey, Krizek, McKay, Meyer, Palchik, Reid, Smedberg, Snyder, Sullivan and Walkinshaw.

Adjournment

Without objection, Chair Cristol adjourned the meeting at 9:46 p.m.

Approved this 3rd day of December 2020.

Katie Cristol
Chair

Jeffrey C. McKay
Secretary-Treasurer



RESOLUTION #2422

SUBJECT: Finding Need to Conduct the November 5, 2020 Meeting Electronically

WHEREAS: On March 12, 2020, the Governor of Virginia declared a state of emergency in Virginia in response to the spread of novel coronavirus, or COVID-19, a communicable disease of public health threat as so declared by the State Health Commissioner on February 7, 2020 (“COVID-19”);

WHEREAS: In subsequent Executive Orders, particularly Executive Order Nos. 53 and 55, as amended, the Governor of Virginia, among other measures designed to ensure safe physical distancing between individuals, prohibited public and private in person gatherings of 10 or more individuals and ordered all individuals in Virginia to remain at their place of residence, with limited exceptions, to mitigate the impacts of COVID-19 and prevent its spread;

WHEREAS: The Northern Virginia Transportation Commission finds that it has a responsibility to demonstrate to the public, through the Commission’s conduct, the importance of maintaining proper physical distance from others and to avoid gathering in public where the risks of infection are highest, and to take measures that promote physical distancing in order to protect the public health and mitigate the impacts and spread of COVID-19, including, among others, conducting meetings electronically whenever possible;

WHEREAS: On April 22, 2020, the Virginia General Assembly adopted, and the Governor signed, budget bill amendments to HB 29 that expressly authorize “any public body, including any state, local, [or] regional body” to “meet by electronic means without a quorum of the public body . . . physically assembled at one location when the Governor has declared a state of emergency . . ., provided that (i) the nature of the declared emergency makes it impracticable or unsafe for the public body . . . to assemble in a single location; (ii) the purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body . . . and the discharge of its lawful purposes, duties, and responsibilities” among other provisions; and

WHEREAS: Several member jurisdictions of the Northern Virginia Transportation Commission have adopted continuity of government ordinances pursuant to Va. Code Ann. § 15.2-1413 which ordinances, among other provisions, authorize regional bodies of which the locality is a member may meet electronically to transact business essential to the continuity of government.

NOW, THEREFORE, BE IT RESOLVED that the Northern Virginia Transportation Commission hereby finds that meeting by electronic means is authorized because the nature of the declared emergency makes it both impracticable and unsafe for the Commission to assemble in a single location on November 5, 2020, to discuss and transact the business of the Commission listed on the November 5, 2020 Commission Meeting Agenda.

NOW, THEREFORE, BE IT FURTHER RESOLVED that NVTC that hereby finds that meeting by electronic means is authorized because the items on the November 5, 2020 Commission Meeting Agenda are statutorily required or necessary to continue operations of the Commission and the discharge of the Commission's lawful purposes, duties, and responsibilities.

NOW, THEREFORE, BE IT FURTHER RESOLVED that NVTC hereby finds that the items on the November 5, 2020 Commission Meeting Agenda are encompassed within the continuity of operations ordinances adopted by several member localities of the Northern Virginia Transportation Commission as essential to the continued operation of the government during the disaster posed by the public health emergency resulting from COVID-19.

Approved this 5th day of November 2020.



Jeffrey C. McKay
Secretary-Treasurer



Katie Cristol
Chair



RESOLUTION #2423

SUBJECT: Authorize the Delay in Approving the NVTC FY 2022 General and Administrative Budget

WHEREAS: According to the NVTC By-Laws, the executive director is to submit a proposed budget for the succeeding fiscal year to the Executive Committee for approval prior to January, which is then submitted to the Commission for action by its January meeting;

WHEREAS: Revenues to support NVTC's general and administration budget come from direct contributions from the member jurisdictions, an amount taken off the top of state aid received by NVTC on behalf of its member jurisdictions, and from toll revenues from the Commuter Choice program;

WHEREAS: At its October 1, 2020 meeting, the Commission approved the notice of direct contributions for FY 2022 from its member jurisdictions;

WHEREAS: NVTC and the Commonwealth Transportation Board approve the administrative expenses associated with the Commuter Choice program on a schedule that aligns with the project selection process;

WHEREAS: State aid received by NVTC comes from a portion of the Department of Rail and Public Transportation (DRPT) operating and capital assistance for its WMATA compact members' annual commitments to WMATA and those jurisdictions' local transit systems;

WHEREAS: Due to the delay in statewide revenue projections as a result of the COVID-19 pandemic, DRPT is also delayed in providing updated FY 2022 projections for operating and capital assistance for its WMATA compact members' annual commitments to WMATA and those jurisdictions' local transit systems;

WHEREAS: NVTC is limited in its ability to prepare an informed FY 2022 General and administrative Budget until the release of the updated DRPT FY 2022 operating and capital assistance projections; and

WHEREAS: A delay in approving NVTC's FY 2022 General and Administrative Budget until March 2020 will not impact NVTC operations as FY 2022 does not commence until July 1, 2021.

NOW, THEREFORE, BE IT RESOLVED that the Northern Virginia Transportation Commission, for the purposes of the Commission's FY 2022 General and Administrative Budget, hereby suspends the requirement in the NVTC By-Laws regarding the January deadline for submitting the proposed annual budget for Executive Committee and Commission action to allow for a delay in the budget approval process.

NOW, THEREFORE, BE IT FURTHER RESOLVED that NVTC authorizes the executive director to submit the proposed FY 2022 General and Administrative Budget to the Executive Committee and the Commission, following receipt of state assistance projections, to be submitted for action by the full Commission no later than the March 2020 Commission meeting.

Approved this 5th day of November 2020.



Jeffrey C. McKay
Secretary-Treasurer



Katie Cristol
Chair



RESOLUTION #2424

- SUBJECT:** Approve Policy Changes Governing the Commuter Choice Program in Both Corridors, I-66 Inside the Beltway and I-395/95
- WHEREAS:** The Second Amended and Restated Memorandum of Agreement – Transform66: Inside The Beltway Project (“I-66 MOA”) and Memorandum of Agreement Regarding the Annual Transit Investment from the 395 HOT Lanes (“I-395/95 MOA”) require that any project proposed for Commuter Choice funding must benefit toll paying users of the I-66 Inside the Beltway or 95 and 395 Express Lanes facility, respectively;
- WHEREAS:** The I-66 MOA stipulates that any funded Commuter Choice project must have its funding obligated within two years of allocation and expended within five years of allocation, a stipulation that the Northern Virginia Transportation Commission (NVTC) also applies to the I-395/95 corridor for programmatic consistency;
- WHEREAS:** Receipt of Commuter Choice funding carries significant reporting and other administrative responsibilities to support NVTC in its program management responsibilities per the I-66 MOA and I-395/95 MOA;
- WHEREAS:** The I-66 MOA and I-395/95 MOA require NVTC to report annually to the Commonwealth on the performance of funded projects, which necessitates projects that have readily measurable outcomes;
- WHEREAS:** NVTC’s Standard Project Agreements require successful completion of projects as per the I-66 MOA and I-395/95 MOA, at risk of recipients needing to return Commuter Choice funds to NVTC; and
- WHEREAS:** The Commission has a strong interest in encouraging a portfolio of Commuter Choice projects that offer robust benefits to toll payers and that can successfully be implemented within the parameters of the I-66 MOA and I-395/95 MOA.
- NOW, THEREFORE, BE IT RESOLVED** that the Northern Virginia Transportation Commission hereby approves four policy changes to the Commuter Choice program in both the I-66 Inside the Beltway and I-395/95 corridors: 1) A framework for larger capital projects; 2) a minimum funding award amount; 3) a more defined set of guidelines and requirements for transportation demand management projects; and 4) a partner support documentation requirement.
- NOW, THEREFORE, BE IT FURTHER RESOLVED** that approval of these changes in relation to the I-395/95 corridor program is contingent upon the Potomac and Rappahannock Transportation Commission’s approval of a comparable resolution.

Approved this 5th day of November 2020.

A handwritten signature in dark ink, appearing to read "Jeff McKay", written over a horizontal line.

Jeffrey C. McKay
Secretary-Treasurer

A handwritten signature in dark ink, appearing to read "Katie Cristol", written over a horizontal line.

Katie Cristol
Chair



RESOLUTION #2425

SUBJECT: Adopt the Technical Evaluation Process for the Commuter Choice on the I-395/95 Corridor Program and Authorize the Executive Director to Issue a Call for Projects for I-395/95 Corridor Round Two (FY 2022-FY 2023)

WHEREAS: The agreement between the Commonwealth and 95 Express Lanes LLC secured an annual payment for transit services of \$15 million per year, escalating by 2.5% per year, to fund multimodal projects along the I-395/95 corridor;

WHEREAS: The Memorandum of Agreement adopted by the Northern Virginia Transportation Commission (NVTC) and the Potomac and Rappahannock Transportation Commission (PRTC) in November 2017 and adopted by the Commonwealth Transportation Board (CTB) in December 2017, between the CTB, NVTC, PRTC, Department of Rail and Public Transportation (DRPT) and Virginia Department of Transportation (VDOT) requires:

1. A request for projects from all jurisdictions that are members of either NVTC or PRTC and other public transportation providers providing service in those jurisdictions.
2. The selection and technical evaluation of projects by NVTC/PRTC, the development of a funding strategy for each proposed project, and the submission of each proposed project by NVTC/PRTC to the CTB.
3. NVTC/PRTC to hold a public hearing prior to NVTC/PRTC's selection of projects for submission to the CTB.

WHEREAS: The Memorandum of Agreement between NVTC and PRTC for Distribution and Allocation of I-395 Annual Transit Investment Funds, adopted by both Commissions in January 2019, establishes that NVTC will administer the Commuter Choice program; and

WHEREAS: The Joint Commission Working Group, composed of members from NVTC and PRTC; the NVTC Program Advisory Committee; and applicant staff support the continued use of the Technical Evaluation Criteria from the Commuter Choice on the I-66 Corridor Round Four call for projects and their application to the I-395/95 Corridor program for sake of predictability and program consistency.

NOW, THEREFORE, BE IT RESOLVED that the Northern Virginia Transportation Commission hereby authorizes the executive director to initiate a call for projects for Commuter Choice on the I-395/95 Corridor Round Two (FY 2022-FY 2023) and adopts the Technical Evaluation Criteria for the program.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the adoption of the Technical Evaluation Criteria shall also apply to subsequent Commuter Choice calls for projects on the I-66 Inside the

Beltway and I-395/95 corridors until such time as the Commission wishes to revisit the criteria.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the elements of this authorization and adoption pertinent to the I-395/95 corridor program is contingent upon the Potomac and Rappahannock Transportation Commission's approval of a comparable resolution.

Approved this 5th day of November 2020.



Jeffrey C. McKay
Secretary-Treasurer



Katie Cristol
Chair