

MINUTES
NVTC COMMISSION MEETING – MAY 6, 2021
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
Matt de Ferranti
Adam Ebbin
Eileen Filler-Corn
Libby Garvey
Paul Krizek
Matt Letourneau
David Meyer
Jennifer Mitchell (Alternate, Commonwealth of Virginia)
Dalia Palchik
David Reid
Paul Smedberg
David Snyder
Dan Storck (Alternate, Fairfax County)
Richard Sullivan
Mike Turner
James Walkinshaw

Members Not Present

John Foust
Jeff McKay

Staff Present via Electronic Participation

Kate Mattice, Executive Director	
Andrew D’huyvetter	Zachary Smith
Allan Fye	Aimee Perron Siebert
Rhonda Gilchrest	Melissa Walker
Dinah Girma	Steve MacIsaac (legal counsel)
Dan Goldfarb	Rich Dalton (VRE)
Scott Kalkwarf	Greg Potts (WMATA)
Ben Owen	Jennifer DeBruhl (DRPT)

Opening Remarks

Chair Cristol welcomed everyone to the May 6, 2021 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.

Chair Cristol noted that Mr. McKay could not attend the meeting; Mr. Storck will be voting as his alternative. Commission Secretary Rhonda Gilchrest then called the roll and confirmed a quorum was present.

Consent Agenda

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

- A. Resolution #2442: Finding Need to Conduct the May 6, 2021 NVTC Meeting Electronically
- B. Authorize the Executive Director to Send a Letter Certifying Receipt of Certain Documents from WMATA Required by State Code

Before the vote, Ms. Mattice reported that three public comments were received prior to the meeting, including one supporting a return to more frequent Metro service, one supporting NVTC's use of DBEs in future contracts, and one supporting two Commuter Choice projects. The comments were provided to Commissioners prior to the meeting. She noted that the comment regarding Commuter Choice will also be included in the docket for that program.

Mr. Aguirre moved, with a second by Ms. Palchik, to approve the Consent Agenda.

Mr. Ebbin asked if NVTC leadership has discussed when is the right time for the Commission to return to in-person meetings. Chair Cristol answered that the Executive Committee has discussed this and is working with staff on technology options and available infrastructure to meet in-person, or a hybrid approach with options to attend in-person or connect electronically. The tentative plan is for staff to test the options with the goal of having the ability to meet in-person for the July 1, 2021 meeting. She suggested staff send out a short survey to gauge Commissioner interest in returning to in-person meetings. Mr. Ebbin stated that with more people being vaccinated, NVTC should prepare for the governor to lift the state of emergency.

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, de Ferranti, Ebbin, Filler-Corn, Garvey, Krizek, Letourneau, Meyer, Palchik, Smedberg, Snyder, Storck, Sullivan, Turner and Walkinshaw. (Mr. Bell and Mr. Reid did not participate in the vote.) (A copy of Resolution #2442 is attached.)

Commuter Choice

Chair Cristol stated that there is one Commuter Choice action to approve a Third Amended and Restated Memorandum of Agreement Transform66: Inside the Beltway Project. On behalf of the Commonwealth, DRPT Director Mitchell will present the action being requested from the Commonwealth.

I-66 Technical Edits Regarding Debt Service Payments. DRPT Director Mitchell explained that the Commonwealth recently identified language in the Second Amended MOA that would unintentionally constrain annual servicing payments for debt issued to finance the Long Bridge project and/or Rosslyn Metrorail Station improvements. The existing wording would limit these servicing payments to the amounts of Inside the Beltway revenues transferred to NVTC for Commuter Choice purposes. The proposed revised text fixes this and meets the intent of the agreement, which will now state, "At the time of debt issuance, it shall be demonstrated that the anticipated revenues are sufficient to allow for the required debt service and the annual NVTC Commuter Choice] Payment." Ms. Mitchell stated that the other edits are minor and not substantive.

Ms. Mattice stated that NVTC staff and legal counsel believe that the revised text sufficiently protects the toll revenue payments due to NVTC for Commuter Choice on the I-66 Corridor. Staff recommend that the Commission approve the Third Amended and Restated MOA, which contains the technical edits and no further substantive changes. Resolution #2443 will accomplish this.

Mr. Bell moved, with a second by Mr. Sullivan, to approve Resolution #2443. 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, de Ferranti, Ebbin, Filler-Corn, Garvey, Krizek, Letourneau, Meyer, Palchik, Reid, Smedberg, Snyder, Storck, Sullivan, Turner and Walkinshaw. (A copy of Resolution #2443 is attached.)

Presentation on Commuter Choice on the I-395/95 Corridor Round Two Scoring and Staff Recommendation of Program of Projects. Chair Cristol stated that in Mr. McKay's absence, she asked the executive director to give a brief update on the NVTC-PRTC I-395/95 Joint Commission Working Group meeting on April 22, followed by Mr. Snyder, chair of the Program Advisory Committee (PAC), to give an update on the PAC meeting. Ms. Mattice stated that the I-395/95 Joint Commission Working Group met to review the scoring results and staff's proposed programming approach for Round Two funding, which covers FY 2022 and FY 2023. The Working Group's recommendation to the full Commissions (NVTC and PRTC) is to endorse the staff recommendation to fund all 13 eligible proposals, subject to the public comment received, along

with NVTC's program administration costs for the two years. The Working Group agreed with staff's assessments that all of the proposals support the program's goals of moving more people and expanding transportation options in the I-395/95 corridor, and that all of them make sense to advance at this time. Further, the 13 proposals can be accommodated within the available funding. Staff expect full funding for the two-year program, which is a mark of the strong partnership between Transurban (the Express Lanes concessionaire), NVTC and the Commonwealth. She stated that Mr. Owen will provide more information in his presentation and staff will return at the June meeting to seek Commission action, following the conclusion of the public comment period, which is open through May 17, 2021. NVTC has already received 22 comments.

Mr. Snyder reported that the Program Advisory Committee (PAC) also met on April 22 and discussed next steps for Commuter Choice on the I-66 Corridor Round Four funding, covering FY 2021 and FY 2022. When the Commission approved the initial Round Four Program of Projects last fall with revenue that NVTC had on hand, it was anticipated that there would be additional revenues this spring to advance a Supplemental Program of Projects. He stated that there were some highly ranked projects that were unable to be funded and were carried over for potential supplemental funding. It is now expected that funding will be available in the form of the initial \$5 million contribution from the Outside the Beltway Express Lanes concessionaire, as well as possible Inside the Beltway payments from VDOT if toll revenues continue rebounding. He reported that the PAC agreed with staff's recommendation to consider action on a Supplemental Program of Projects this fall once the Outside the Beltway funds are received and have staff have a better understanding of Inside the Beltway recovery. NVTC would look to adopt any program before opening the next I-66 call for projects in November.

Mr. Snyder reported that the PAC also received updates on the Envision Route 7 bus rapid transit planning effort as well as research that staff has begun on the topic of low and no fare strategies. Staff plan to present a white paper and convene a low/no-fare roundtable at the July Commission meeting. He stated that the committee is eager for a discussion by the full Commission as it is a timely issue.

Mr. Owen then made a presentation giving more information about the proposed I-395/95 Round Two scoring and the recommended Program of Projects. NVTC received a total of 18 applications (\$26.2 million) under the call for projects that concluded in January. Thirteen applications with a total funding request of \$21.9 million met eligibility criteria and are under consideration for funding. Staff anticipate full funding of approximately \$30 million for the two-year program.

Mr. Meyer left the meeting at 7:33 p.m.

Mr. Owen stated that staff's recommendation, endorsed by the Joint Commission Working Group, is to fund all 13 eligible proposals subject to the public comment received. The proposals can be accommodated within the available funding and, more importantly, align with the I-395/95 corridor improvement goals of moving more people and creating viable, effective transportation options. Mr. Owen stated that taken together, the 13 proposals are expected to

move about 1,000 more people inbound through the I-395/95 corridor each morning upon full implementation and as travel patterns in the corridor revert to more typical conditions. The 13 proposals are listed below including the scores:

List of Proposed Projects Under Consideration for Round Two (FY 2022-FY 2023) Funding for Commuter Choice on the I-395/95 Corridor					
	Applicant	Application Title	Application Score (100 Points)	Funding Request	Cumulative Funding Request
1	OmniRide	Renewal of Enhanced Bus Service from Dale City to Ballston	86	\$291,831	\$291,831
2	Spotsylvania Co.	New Park and Ride Lot in Massaponax	77	\$1,100,000	\$1,391,831
3	Fairfax County	Renewal of Route 396 Express Bus Service: Backlick North Park and Ride to Pentagon	71	\$1,386,000	\$2,777,831
4	OmniRide	Renewal of Bus Service from Staffordboro to the Pentagon	71	\$704,773	\$3,482,604
5	OmniRide	Renewal of Bus Service from Staffordboro to Downtown D.C.	71	\$968,308	\$4,450,912
6	DASH	Enhanced Bus Service from Van Dorn Metro to the Pentagon	66	\$5,734,000	\$10,184,912
7	OmniRide	Renewal of Enhanced Bus Service on Route 1 Local: Quantico to Woodbridge VRE	66	\$541,169	\$10,726,081
8	OmniRide	Renewal of Enhanced Bus Service on Prince William Metro Express: OmniRide Transit Center to Franconia-Springfield Metro	66	\$434,776	\$11,160,857
9	FRED Transit	New Bus Service from Route 208 Park and Ride Lot to Fredericksburg VRE	64	\$1,218,800	\$12,379,657
10	DASH	Enhanced Bus Service from Mark Center to Potomac Yard	56	\$3,650,000	\$16,029,657
11	OmniRide	TDM Strategy-- I-395/95 Corridor Vanpool Monthly Incentive	55	\$604,800	\$16,634,457
12	Fairfax County	Enhanced Bus Service for Route 371: Lorton to Franconia-Springfield Metro	51	\$2,496,529	\$19,130,986
13	Prince William Co.	Horner Road Park and Ride Lot Expansion	49	\$2,800,000	\$21,930,986
	NVTC	<i>Program Administration and Oversight for FY 2022-FY 2023</i>	--	<i>\$800,000</i>	<i>\$22,730,986</i>

Mr. Owen noted that the public comment period on the 13 proposals under consideration for funding opened on April 16 and remains open through May 17. On April 28 staff held an interactive virtual town hall meeting at which members of the public were able to learn more about the projects under consideration for funding as well as the overall Commuter Choice program. Staff will brief the Commonwealth Transportation Board (CTB) on the proposals under consideration for funding in mid-May. At the June 3 NVTC and PRTC meetings, staff will share the public comments received and seek the Commissions' approval of a Program of Projects, followed by the CTB's approval in mid-June. Staff will then distribute Standard Project Agreements for selected projects so that implementation may begin with the start of the new fiscal year on July 1, 2021.

Mr. Turner stated that the Program Advisory Committee discussed no fare/low fare at length. He noted that Loudoun County has a new transit operator and has the ability to combine contracts, so there is opportunity to look at these issues. He believes that the consensus is that transit will never “return to normal” and that there is now a new normal, which gives the region an opportunity to have these discussions, such as proper price point and route structures.

Minutes of the March 4, 2021 NVTC Commission Meeting

Mr. Ebbin moved, with a second by Mr. Reid, to approve the minutes of the March 4, 2021 meeting. The vote was conducted by a roll call vote and the motion passed. The vote in favor was cast by Commissioners Aguirre, Alcorn, Bell, Cristol, de Ferranti, Ebbin, Filler-Corn, Garvey, Krizek, Palchik, Reid, Smedberg, Snyder, Storck, Sullivan, Turner and Walkinshaw. Ms. Bennett-Parker and Mr. Letourneau abstained.

NVTC FY 2022 General and Administrative Budget and Work Plan

Chair Cristol reminded Commissioners that they acted earlier in the year to delay the approval of the budget and Work Plan due to the uncertainties surrounding the current environment and jurisdictions’ own budgets resulting from the pandemic. This month staff is presenting the budget and Work Plan again and will return in June with the requested action to approve both the budget and Work Plan.

Ms. Mattice and Mr. Kalkwarf gave a presentation on the proposed budget. Ms. Mattice reviewed the proposed budget approach and Mr. Kalkwarf reviewed cost drivers and revenue sources. Ms. Mattice stated that the focus is to maintain near zero growth in the budget while covering fixed cost obligations and supporting a strong professional staff. Ms. Mattice also reviewed the Work Plan, including deliverables and actions.

Mr. Krizek asked about staffing, NVTC’s turn-over rate and if there are any open staff positions. Ms. Mattice stated that she is happy to report that staffing has been steady for at least two years with no turn-over. There is a current vacancy in financial management, which is included in the budget for the position to be filled. The Commission had approved that position last year, but it was decided to not onboard a new staff member during the pandemic when work was totally remote. Chair Cristol commended Ms. Mattice, as one of the best managers in the region, who is leading a great team of talented staff.

In response to a question by Mr. Bell, Ms. Mattice stated that some staff have wanted to return to the office a few days a week and there is a plan to survey the staff to see what their comfort level is for returning to the office. Mr. Turner stated that a 9% increase in health insurance costs seems high. Mr. Kalkwarf stated that it is actually a 4% increase. Ms. Mattice also noted that particular line-item percentage actually is a small dollar amount increase.

Washington Metropolitan Area Transit Authority

Report from Virginia WMATA Board Members. Mr. Smedberg reported that in April the WMATA Board adopted the FY 2022 Budget and the FY 2022 – 2027 Capital Improvement Program. The adopted FY 2022 operating budget reflects \$193.4 million in federal relief from the American Rescue Plan Act that was enacted in March. Because of the additional federal funding, WMATA was able to avoid service reductions, station closures and layoffs. Metrorail will continue to operate at 85% of pre-pandemic service levels and Metrobus will operated at 85% of pre-pandemic service levels. The FY 2022 operating budget also includes funding for the start of service at the Potomac Yard Station, a revenue service date January 2022 for the Silver Line Phase 2 (although WMATA will not set a target service date until MWAA resolves all identified issues), and \$20 million in equity initiatives and the Title VI mitigation for the Silver Line Phase 2.

Mr. Smedberg also reported that the FY 2022 capital budget totals \$2.6 billion, of which approximately \$1 billion is funded thru dedicated capital funding debt. This is the largest capital budget in recent memory and this acceleration of capital expenditures would not be possible without the dedicated funding provided by the region. The WMATA capital budget and CIP prioritize state of good repair improvements, customer safety and service reliability.

Mr. Smedberg stated that WMATA continues to look at how to move forward to get people back to using transit. He also has been working with WMATA staff on the federal Passenger Rail Investment and Improvement Act (PRIIA) reauthorization.

Mr. Letourneau stated that regarding the capital budget, WMATA will start running out of dedicated revenue for the capital program in FY 2027-FY 2028 timeframe, which will create a sizeable funding hole and WMATA will not have yet completed all of its state of good repair projects by that point. There will need to be regional discussions regarding this sooner than later. He also noted that Commissioners may have seen some press about the WMATA Board wanting to lower fares to lure riders back to the system. He clarified that the WMATA Board has not made any decisions about fares and what was reported was the personal opinion of an individual Board member. The Board is re-examining policies regarding service and fares and what the pandemic recovery looks likes for WMATA. Mr. Letourneau stated that he and Mr. Smedberg are both interested in a larger strategic conversation about fare policy and he has been very clear with the rest of his colleagues on the WMATA Board that it is important to solicit jurisdictional feedback as part of those conversations. He has asked NVTC staff and WMATA Committee Chair Aguirre to help structure those conversations with the WMATA Committee over the coming months.

Mr. Letourneau also addressed the traction power upgrade issue and provided some historical context. The purpose of the FY 2014 traction power upgrade project was to increase capacity to be able to run eight-car trains. WMATA has completed the work and has a project agreement with the Northern Virginia Transportation Authority (NVTA) for funding. In 2018, NVTA had concerns about the project and has held up reimbursing WMATA for the project. The bottom line is that Virginia must pay its portion of the project and he reported that it looks like NVTA will begin moving forward on the reimbursements. He reminded Commissioners that he and Mr. Smedberg are the voice of Northern Virginia and the Commonwealth on the WMATA Board, so

he encouraged Commissioners to let them know when they have concerns or issues. He is happy to provide more information off-line to individual Commissioners regarding the traction power issue if they have more questions. He stated that open and transparent communication is important.

Ms. Garvey stated at a recent Region Forward meeting, speakers talked about a survey about going back to work and transit. She asked if it is important, with the new travel trends due to the pandemic, to look at alternatives to “peak service” times. It seems to her that transit needs to be reliable and steady at all times not just at peak commute times. Mr. Smedberg stated that all of this needs to be looked at in the light of what transit will look like in the future. Ms. Garvey suggested NVTC discuss this at a future meeting.

Mr. Bell asked if WMATA has done any impact analysis on short-term fare discounts to get people back to using transit. Mr. Letourneau stated that in his experience with government once something is provided as an incentive it is hard to take back even a temporary discount. He prefers a fare reset as opposed to a short-term discount. Mr. Smedberg stated that any fare decisions need to be financially sustainable. Mr. Bell agreed, but wondered about a “buy four, get fifth free” approach. Mr. Turner stated that he disagrees with that approach, although he does concur with conducting deliberate analysis.

Chair Cristol asked if the federal transit benefit has changed with the increase in teleworking. Mr. Smedberg confirmed that the federal transit benefit remains the same. In response to a question from Mr. de Ferranti, Mr. Smedberg stated that the ridership challenge is huge, and FY 2023 fiscal implications remain. Mr. Letourneau stated that federal relief funding will not be all used in FY 2022 and could carry over into FY 2023, provided WMATA does not go aggressive on the fare discussion.

Report from the Chair of the NVTC WMATA Committee. WMATA Committee Chair Aguirre stated that the committee is scheduled to meet on May 20, with a full agenda covering the 2021 report on the Annual Performance and Condition of WMATA with the focus on strategies to rebuild ridership, brief updates from staff on the scope of the 3% cap working group’s work for 2021, as well as several other items. He is working with staff and the Virginia WMATA Board members on the timing and structure of Mr. Letourneau’s request for ideas on potential fare policy changes to rebuild ridership.

Federal Legislative Update

Mr. Smith gave a federal legislative update. He stated that back in March Congress passed the American Rescue Plan, which provided \$30.5 billion for public transit and helped WMATA avoid severe service cuts and changes for next fiscal year. He also reviewed several legislative proposals under consideration, including President Biden’s American Jobs Plan, which includes a \$2.3 trillion infrastructure proposal over eight years. Last week Senate Republicans countered the American Jobs Plan with a \$568 billion infrastructure proposal that would see \$299 billion going to roadways and about \$61 billion going to public transit over a five-year period. President

Biden's plan is mostly new spending for transit, whereas the Republican proposal includes existing spending in current formula and discretionary grant programs.

Mr. Smith stated that regarding the Surface Transportation Reauthorization Bill/FAST Act, the House Transportation and Infrastructure Committee has asked House members to submit policy recommendations and earmarks for community infrastructure project proposals that would be included in the next surface transportation bill. On the House side, leadership of the Transportation and Infrastructure Committee hope to mark up a bill later this month. The three Senate committees with jurisdiction over transportation and spending have not set a date for when they would advance a bill to the floor.

Mr. Smith also stated that last month the President sent his discretionary spending priorities to Congress for FY 2022, which begins in October. For transportation, the President proposes \$2.5 billion for the Capital Investment Grant Program, \$250 million for low and no-emission bus program, and \$110 million for a new program to support transportation equity. The Appropriations Committees in both the House and Senate are working on their own proposals and awaiting the President's full FY 2022 budget which would give them a better picture of funding levels. This year the House Appropriations Committee also took requests for transportation projects or earmarks for the FY 2022 appropriations process. The Senate Appropriations is also expected to begin a process on earmarks soon as well.

Mr. de Ferranti asked about the timing of budget reconciliation. Mr. Smith stated that he would be happy to look into this and get back to Mr. de Ferranti. Mr. Krizek asked about the new earmark process. Ms. Mattice provided more information and stated staff has had opportunity to engage with several legislators. The earmark process happened fast and each legislative office had a different approach. The dollar amount for earmarks is considerably smaller compared to the size of earmarks a decade ago. If earmarks continue as an annual process, NVTC will be better informed for future earmark applications.

Mr. Snyder asked if NVTC received a response to its congressional letter. Ms. Mattice stated that the feedback NVTC received was that the Route 7 BRT project, which crosses four jurisdictions, may have some opportunities for the future funding through the Rebuilding American Infrastructure with Sustainability and Equity, or RAISE Discretionary Grant program.

Transit Resource Center

Mr. Goldfarb reported that the Transit Resource Center provides assistance to member jurisdictions; collects, analyzes, and reports data from all NVTC's programs; manages the Envision Route 7 Bus Rapid Transit (BRT) project; and supports coordination with other regional transportation organizations. Major initiatives within the Transit Resource Center include the National Transit Database (NTD) support, Transit Boarding Estimation and Simulation Tool (TBEST), transit data compilation and quarterly reports, and special studies and research.

Mr. Goldfarb stated that the Envision Route 7 Bus Rapid Transit (BRT) project is planned as a high performing BRT service that connects Tysons (via Falls Church, Seven Corners, and Bailey's Crossroads) to the Mark Center in Alexandria where a portion of the service will share infrastructure with the West End BRT in Alexandria. The Route 7 BRT project is part of a larger, regional network of BRT services planned in Northern Virginia that includes the Metroway BRT in the City of Alexandria and Arlington County, the West End Transitway in the City of Alexandria, and the Embark Richmond Highway BRT in Fairfax County.

Mr. Goldfarb stated that early phases of the Envision Route 7 project 1) identified and documented the need for transit in the Route 7 corridor from Alexandria to Tysons; 2) generated early ridership estimates that support high-capacity transit; 3) identified BRT as the appropriate transit mode; 4) selected a Locally Preferred Alternative (LPA); and 5) determined right-of-way needs and early capital cost estimates. Phase IV, which is scheduled to begin in Fall 2021, will focus on traffic impacts and benefits while future phases will focus on the environmental review and detailed design. At the June Commission meeting, staff plan to seek Commission approval to release the Request for Proposals for Phase IV. Following the procurement process, staff will return in the fall to request Commission approval to award a consultant contract.

Mr. Goldfarb stated that NVTC's National Transit Database (NTD) support is also under the umbrella of the Transit Resource Center. NVTC works with local jurisdictions and transit agencies to coordinate the collection of performance data for the Federal Transit Administration's (FTA) National Transit Database and manages a technical support contract for NTD data collection. The data submitted to NTD plays a vital role in calculating annual federal formula funds that are used to support WMATA. The contract cost is \$225,000 but has a return rate of \$10 million coming back to the region to use for Metro.

Mr. Goldfarb also stated that NVTC has invested in and maintains TBEST (Transit Boarding Estimation and Simulation Tool), a vital transit planning tool that was developed by the Florida Department of Transportation and is being used by many jurisdictions and transit agencies across Virginia. TBEST uses land use and current bus networks as inputs to develop short-term ridership forecasts, calculate cost estimates, and perform environmental justice (EJ) analysis. NVTC proactively coordinates with DRPT and TPB to keep the TBEST database for Northern Virginia up-to-date. To date, staff has used this tool to support transit planning efforts in the City of Alexandria and Fairfax County and staff is working with the City of Fairfax to develop a scope of work for TBEST support.

Mr. Goldfarb stated that NVTC is a repository for a growing amount of valuable transit data (ridership, parking utilization, etc.) and uses the data to support research and analytical efforts for NVTC programs. Recent data analysis for local transit data during the second quarter of FY 2021, shows an increase in ridership from previous months in the year. Bus ridership has shown less of a decrease than rail modes. This is a function of rail ridership in Northern Virginia being primarily used by commuters. Bus modes serve commuters and non-work trip purposes. Bus is more likely to serve transit dependent people. The data shows that bus also provides greater accessibility to different income groups.

Mr. Goldfarb provided a snapshot of the COVID-19 pandemic's impact on transit. Recent monthly data shows an uptick in transit and operators are starting to increase service levels. He stated that commuter trips will continue to have the greatest impact on overall regional transit demand. In Northern Virginia, teleworking has a greater impact on rail ridership. Bus ridership has been less impacted by teleworking than rail ridership and bus was and continues to be a key mode for many frontline workers. As people begin to return to the office, the region should see an increase in transit usage.

Mr. Krizek asked about tourism and its impact on Metro ridership, the impact of telework on commuting travel, and what is happening with the time-of-day highway volumes and the tipping point when people will shift to transit. Mr. Goldfarb stated that staff can look into these and see if there is any data available. In response to another question from Mr. Krizek, Mr. Goldfarb clarified that there needs to be an incentive for people to use transit, so when congestion returns on the roads as people come back to their workplaces, transit usage should go up.

Virginia Railway Express

Operating/Access Agreement and Master Lease Agreements with CSX Transportation.

Ms. Bennett-Parker stated that the Commission is asked to approve Resolution #2444 authorizing the VRE CEO to Execute the Amended and Restated Operating/Access Agreement and the Master Lease Agreements with CSX Transportation. Both agreements reflect changes to the contractual relationship between NVTC, PRTC and CSXT resulting from the right-of-way acquisition by the Commonwealth as part of the Transforming Rail in Virginia program.

Ms. Bennett-Parker explained that although the Commonwealth has acquired the right-of-way, CSXT will continue to dispatch and maintain both CSXT and Virginia Passenger Rail Authority owned tracks resulting in a seamless VRE operation. The Commissions will continue to lease station property from CSXT that is not part of the acquisition by the Commonwealth. Therefore, the Commissions need to approve these agreements. The current agreement with CSXT expires on June 30, 2021.

VRE CEO Rich Dalton gave a quick overview of the substantive provisions of the new agreements. Mr. Dalton stated that since CSXT will dispatch all trains on VPRA railroad property as well as its own and will maintain both its right-of-way and VPRA's, the terms of the new agreement with CSXT are not substantially different from past agreements. The term of the CSXT access agreement will no longer in five-year increments and the new agreement will be coterminous with the Joint Operations and Maintenance Agreement (100 Years unless sooner terminated). The current train mile fee and other charges remain unchanged and CSXT will bill VRE directly for access fees related to use of VPRA tracks.

Mr. Snyder asked if the agreement has been reviewed by legal counsel. NVTC's Legal Counsel Steve MacIsaac stated that he recommends Commission approval of the agreement, with the recognition that VRE's relationships with the freight railroads have in the past been fraught with problems and VRE has not always been able to get exactly what it wants, but these agreements

are certainly no worse than the past agreements with CSXT over the life of VRE and are actually better in a number of ways.

Ms. Bennett-Parker moved, with a second by Mr. de Ferranti, to approve Resolution #2444. 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, de Ferranti, Ebbin, Filler-Corn, Garvey, Krizek, Letourneau, Meyer, Palchik, Reid, Smedberg, Snyder, Storck, Sullivan, Turner and Walkinshaw. (A copy of Resolution #2444 is attached.)

VRE CEO Report. Mr. Dalton reported that VRE continues to operate at reduced service levels, running 18 out of the full-service level of 36 trains. The Transportation Security Administration (TSA) is extending the mask mandate for all transportation networks across the country through September 13, 2021. Mr. Dalton also reported that VRE on-time performance for the month of March was 93% systemwide with average daily ridership slightly increasing to approximately 1,500. VRE has been monitoring ridership and the reopening of federal offices and VRE anticipates ridership will continue to modestly increase. Feedback from riders reflects that with the reduced schedule, riders have used other means of commuting, but when service resumes, they plan to come back to VRE. With that input, VRE is looking to potentially returning to full service on June 1, 2021.

DRPT Report

DRPT Monthly Report. DRPT Director Mitchell encouraged Commissioners to read the written DRPT Report. She announced that Donald A. (“DJ”) Stadtler, Jr. has been appointed to the position of Executive Director of the Virginia Passenger Rail Authority (VPRA). Mr. Stadtler was an executive vice president at Amtrak for the past 12 years and worked for the Federal Railroad Administration (FRA) in financial positions for the 11 years before that. He officially started at VPRA on April 26, 2021. Two DRPT employees have accepted positions with the VPRA. DRPT’s Chief Financial Officer Steve Pittard has accepted the same position at the VPRA, and DRPT’s Chief of Rail Mike McLaughlin will be the Chief Operating Officer of the VPRA.

Ms. Mitchell stated that Governor Northam announced on May 5 that the Commonwealth has reached an agreement with Norfolk Southern on a second train serving Roanoke and an eventual extension of two trains into Christiansburg and the New River Valley, which impacts the Northern Virginia region because the rail service runs to this region.

Springfield to Quantico Enhanced Public Transportation Feasibility Study. DRPT Chief of Public Transportation Jennifer DeBruhl gave a brief presentation on this feasibility study of enhanced public transportation services between the Franconia-Springfield Metrorail Station in Fairfax County and the Quantico Marine Base in Prince William County. The study will assess transit enhancements which could include options such as additional express bus services, increased VRE commuter rail service levels, Bus Rapid Transit (BRT), or an extension of Metrorail. In addition, the study will also assess the planned land use and identify potential station areas and development opportunities. DRPT will submit the final report and recommendation to the

General Assembly by December 1, 2021. DRPT has also solicited guidance and feedback from regular meetings of a Technical Advisory Committee (TAC) comprised of stakeholders from Fairfax County, Prince William County, NVTC, PRTC, U.S Department of Defense, VRE and WMATA. DRPT also seeks ongoing input from elected officials and the public from online surveys (May 15 deadline) and a public meeting to be held on May 4, 2021.

Executive Director Report

Ms. Mattice encouraged Commissioners to read her Executive Director Newsletter. She noted that the NVTC WMATA Committee is scheduled to meet on May 20 at 6:00 p.m. and then again on June 30 at 6:00 p.m. where the committee will focus on the 2021 Annual Report on the Performance and Condition of WMATA and an overview of the 3% Cap Working Group's companion report.

Ms. Mattice also stated that NVTC is about six weeks from the end of the Regional Marketing Campaign, which kicked off January 25. The campaign is made possible by a grant from DRPT and local matches from Arlington and Fairfax counties, the cities of Falls Church and Fairfax as well as VRE and OmniRide. One of the main goals of the campaign has been to drive people to the novarides.org website. Data so far shows that performance is well above the benchmark.

Looking ahead, Ms. Mattice stated that at the July meeting the Commission will be presented with some thought pieces and case studies related to fare free/low fare transit policy options. This topic is receiving a lot of attention across the DC region and nationally, including discussions at the NVTC committee level, especially when it comes to using low fare or no fare policies as a post-pandemic recovery tool.

Ms. Mattice announced that NVTC Program Analyst Matt Cheng will be leaving NVTC at the end of the month to continue his education in Boston. Mr. Cheng joined NVTC as a transit fellow in 2017 and was promoted to a program analyst in 2018. In addition to his tireless efforts to support all of regional transit agencies behind the scenes with his TBEST work, Matt really shined during the 2019 and 2020 Metrorail shutdowns along the Yellow, Blue, and Orange Lines. He led NVTC's efforts to coordinate the shutdown mitigation measures and troubleshoot day to day issues that arose during an unprecedented Metrorail system closure for Northern Virginia. He is also the creator of many of NVTC's maps and GIS presentations. Ms. Mattice stated that Mr. Cheng will be missed and on behalf of the Commission, she wished him well on his new pursuits.

Ms. Mattice noted that the Financial Reports for February and March 2021 were provided to Commissioners in their meeting materials. She asked Mr. Kalkwarf to give some guidance on how to understand the data presented in the March report. Mr. Kalkwarf explained that the spike in the data is unfortunately not an increase in gas tax revenue, but an adjustment from December when NVTC discovered a reporting error by a taxpayer. The Department of Motor Vehicles confirmed the error and adjusted the data in March. 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. Ebbin, 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 a personnel matter concerning an appointee of the Commission."

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, de Ferranti, Ebbin, Filler-Corn, Garvey, Krizek, Letourneau, Palchik, Reid, Smedberg, Snyder, Storck, Sullivan, Turner and Walkinshaw.

The Commission entered into Closed Session at 9:20 p.m. Staff who participated in the Closed Session included Ms. Mattice, Mr. MacIsaac and Mr. Dalton. The Commission returned to Open Session at 9:55 p.m.

Chair Cristol moved, with a second by Mr. Ebbin, 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, de Ferranti, Ebbin, Filler-Corn, Garvey, Krizek, Letourneau, Palchik, Smedberg, Snyder, Storck, Sullivan, Turner and Walkinshaw. (Mr. Reid did not participate in the vote.)

Ms. Bennett-Parker moved, with a second by Chair Cristol, to approve Resolution #2445 (copy attached) appointing Stephen A. MacIsaac as VRE General Counsel and Chief Legal Officer. On behalf of the VRE Operations Board and in her role as chair of that board, Ms. Bennett-Parker stated that she is excited to see this motion move forward. Chair Cristol announced that the Potomac and Rappahannock Transportation Commission approved an identical resolution at its May 6 meeting.

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, de Ferranti, Ebbin, Filler-Corn, Garvey, Krizek, Letourneau, Palchik, Smedberg, Snyder, Storck, Sullivan, Turner and Walkinshaw. (Mr. Reid did not participate in the vote.)

The Commission congratulated Mr. MacIsaac on his appointment.

Adjournment

Without objection, Chair Cristol adjourned the meeting at 10:02 p.m.

Approved this 3rd day of June 2021.

Dalia Palchik
Secretary-Treasurer

Katie Cristol
Chair



RESOLUTION #2442

SUBJECT: Finding Need to Conduct the May 6, 2021 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 May 6, 2021, to discuss and transact the business of the Commission listed on the May 6, 2021 Commission Meeting Agenda.

BE IT FURTHER RESOLVED that NVTC that hereby finds that meeting by electronic means is authorized because the items on the May 6, 2021 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.

BE IT FURTHER RESOLVED that NVTC hereby finds that the items on the May 6, 2021 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 6th day of May 2021.



Katie Cristol
Chair



Dalia Palchik
Secretary-Treasurer



RESOLUTION #2443

- SUBJECT:** Approve the Third Amended and Restated MOA to the Memorandum of Agreement Transform66: Inside the Beltway Project
- WHEREAS:** The Transform66: Inside the Beltway Project consists of dynamic tolling, conversion from HOV-2 to HOV-3, transit service, technology upgrades and infrastructure improvements to increase the number of people traveling in the corridor; and an evaluation of project effectiveness on I-66 and its related arterials;
- WHEREAS:** In 2015, Virginia Secretary of Transportation Aubrey Layne designated NVTC as the regional authority to identify and facilitate the delivery of the multimodal components of this project to maximize the transportation benefits of this project, as measured by the number of persons that are able to travel through the corridor;
- WHEREAS:** In January 2016, NVTC and the Commonwealth of Virginia entered into a Memorandum of Agreement (MOA) allowing NVTC to use toll revenues from I-66 Inside the Beltway to fund multimodal components that support the toll payers of this facility, which program is branded as Commuter Choice on the I-66 Corridor;
- WHEREAS:** In October 2016, NVTC and the Commonwealth of Virginia amended and restated the MOA to remove references to the use of tolls for widening the facility; modify language to enhance the credit-worthiness of the toll revenues; clarify the use of funds for transit operations; and address technical corrections identified by the Commonwealth, NVTC staff and NVTC jurisdictions;
- WHEREAS:** In January 2020, NVTC and the Commonwealth of Virginia again amended and restated the MOA to identify a minimum annual payment schedule over the life of the agreement for Commuter Choice on the I-66 Corridor while also allowing toll revenues to support two rail capital projects that support the movement of people along the I-66 Inside the Beltway Corridor and satisfy the requirements for use of toll revenue by benefitting the toll paying users of I-66, namely a new bridge structure that crosses the Potomac River to expand the capacity for commuter and intercity passenger rail service and new Metrorail-related improvements to, and serving, the Rosslyn Metrorail Station that would facilitate the movement of passengers and relieve train congestion on the Blue, Orange, and Silver Metrorail lines;
- WHEREAS:** The Commonwealth recently identified language in the Second Amended and Restated MOA that would unintentionally constrain the amount that the Commonwealth could expend on debt service for the rail capital projects; and
- WHEREAS:** The Commonwealth has identified clarifying text, reviewed by NVTC legal counsel, that sufficiently protects the toll revenue payments due to NVTC for Commuter Choice on the I-66 Corridor.

NOW, THEREFORE, BE IT RESOLVED that the Northern Virginia Transportation Commission hereby approves the attached Third Amended and Restated Memorandum of Agreement Transform66: Inside the Beltway Project and authorizes the executive director to execute the agreement on behalf of the Commission.

Approved this 6th day of May 2021.



Katie Cristol
Chair



Dalia Palchik
Secretary-Treasurer



RESOLUTION #2444

SUBJECT: Authorize the VRE CEO to Execute the Amended and Restated Operating/Access and Amended Master Lease Agreements with CSX Transportation

WHEREAS: The Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission ("Commissions") currently have an Amended and Restated Operating/Access Agreement with CSX Transportation relating to Virginia Railway Express (VRE) operations in the Fredericksburg to Washington corridor, with the agreement ending June 30, 2021;

WHEREAS: In December of 2019, the Commonwealth of Virginia announced the Virginia Rail Improvement Plan, which includes the acquisition of CSX Transportation right-of-way in the Commonwealth including in the Fredericksburg to Washington corridor;

WHEREAS: During the 2020 Virginia General Assembly Session, the Virginia Passenger Rail Authority (VPRA) was established;

WHEREAS: In part, the VPRA will own and manage the right-of-way acquired by the Commonwealth from CSX Transportation;

WHEREAS: in December of 2020, the Commissions approved the Operating/Access and Master Lease agreement with the VPRA to account for VRE service on the newly acquired VPRA right-of-way;

WHEREAS: The current agreements the Commissions have with CSX Transportation must be amended to accommodate the acquisition of CSXT right-of-way by the Commonwealth; and

WHEREAS: The VRE Operations Board recommends the Commissions authorize the VRE Chief Executive Officer to execute the Amended and Restated Operating/Access and Master Lease agreements with CSX Transportation in a form approved by legal counsel.

NOW, THEREFORE, BE IT RESOLVED that the Northern Virginia Transportation Commission hereby authorizes the VRE Chief Executive Officer to execute the Amended and Restated Operating Access Agreement and the Amended Master Lease Agreement with CSX Transportation in a form approved by legal counsel.

Approved this 6th day of May 2021.

Dalia Palchik
Secretary-Treasurer

Katie Cristol
Chair



RESOLUTION #2445

SUBJECT: Appointment of VRE General Counsel and Chief Legal Officer

WHEREAS: the Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission, the co-founders, owners and operators of the Virginia Railway Express commuter rail service (VRE), have been provided legal services related to VRE by Stephen A. MacIsaac beginning when the concept of a commuter rail service on existing freight lines was first being developed and thereafter while Mr. MacIsaac was employed by Prince William County initially and then by Arlington County;

WHEREAS: The Northern Virginia Transportation Commission has also used the services of Mr. MacIsaac for a variety of Commission matters in addition to VRE matters and, in May 2014, officially appointed him as legal counsel in all NVTC matters;

WHEREAS: The Virginia Railway Express Operations Board, and its Legal Service Committee, have considered a proposal to hire Mr. MacIsaac as a contract employee of the Commissions on a full-time basis as the Commissions' General Counsel and Chief Legal Officer for all VRE matters, concluding that doing so would serve the interests of the Commissions and VRE service;

WHEREAS: An employment agreement has been prepared by outside legal counsel and reviewed by the Virginia Railway Express Operations Board, and its Legal Service Committee; and

WHEREAS: The Virginia Railway Express Operations Board recommends the appointment of Mr. MacIsaac as the Commissions' General Counsel and Chief Legal Officer for all VRE matters in accordance with the terms of the employment agreement presented to the Commissions (the "Employment Agreement").

NOW, THEREFORE, BE IT RESOLVED that the Northern Virginia Transportation Commission hereby appoints Stephen A. MacIsaac as General Counsel and Chief Legal Officer for all matters related to the VRE commuter rail service effective May 31, 2021, upon action by each of the Commissions and execution of the aforesaid Employment Agreement by the Commissions and Mr. MacIsaac.

BE IT FURTHER RESOLVED that the Northern Virginia Transportation Commission hereby approves the Employment Agreement and authorizes the Chair to execute it on behalf of the Commission.

BE IT FURTHER RESOLVED that NVTC hereby authorizes the continuation of Mr. MacIsaac' legal services in all Commission related matters, and the Executive Director is authorized to contribute to the VRE operating budget on the same financial terms as have been in place with Arlington County.

Approved this 6th day of May 2021.



Katie Cristol
Chair



Dalia Palchik
Secretary-Treasurer