

**SUMMARY MINUTES
NORTHERN VIRGINIA TRANSPORTATION AUTHORITY
Special Meeting**

March 6, 2008

**Fairfax City Hall
Fairfax, Virginia**

NVTA Members Present:

Voting Members

Christopher Zimmerman, Chairman	Arlington County
Martin Nohe, Vice Chairman	Prince William County
Judy Connally	Governor's Appointee – CTB
Gerald E. Connolly	Fairfax County Board of Supervisors
Robert Lederer	City of Fairfax
Daniel Maller	City of Falls Church
Sharon Pandak	Governor's Appointee
Harry Parrish	City of Manassas
Scott York	Loudoun Board of Supervisors

Non-Voting Members

JoAnne Sorenson	Northern Virginia District, VDOT
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Staff

John Mason	Executive Director
Various jurisdictional staff	

Call to Order:

Chairman Zimmerman called meeting to order at 9:12 am.

Roll Call:

The roll was called and members present or absent were noted for the record.

Item III: Resolution 20-08 Providing for Cessation of NVTA Taxes and Fees and Direction for Refunding Process.

Mr. Mason presented a brief staff report.

Mr. Connolly moved to approve the resolution. Mr. Parrish seconded the motion.

Mr. York requested that the last sentence of Section 3 of Attachment A: Conceptual Approach to Refunding of Taxes and Fees with respect to costs be deleted. Without objection, Chairman Zimmerman ruled to delete the sentence.

The motion to approve Resolution 20-08 carried unanimously.

Item IV: Resolution 21-08 Urging the General Assembly to Take Expeditious Action to Provide Funding for the Northern Virginia Transportation Authority.

Chairman Zimmerman initiated discussion of the item by stating that a lot of work had gone into the creating the NVTA and its project list, none of which can happen without a funding stream. He stated the General Assembly must act. Mr. Zimmerman also pointed out that in addition to the funds taken away by the Supreme Court ruling, the funding that would have come from the abusive driver fees has been lost. Mr. Zimmerman pointed out that the General Assembly was to adjourn on Saturday.

Mr. Connolly then asked the Council of Counsels [Ross Horton, Steve MacIsaac, Ellen Posner, Chris Spera] to clarify how ruling that an unelected body cannot collect fees that are akin to taxes affects water and sewage authorities and other similar bodies. The Council responded that the ruling casts a shadow over any future such organizations or bonds and that it has the potential to create a serious problem. Since no effort was made to carve out NVTA, people will be compelled to look at everything in light of this ruling.

Ms. Pandak asked if there was a rehearing scheduled. The Council responded that the NVTA would have to be the one to ask for the rehearing and it would need to be done by Monday. Neither the State nor any other entities can ask. At this point, however, the ruling affects other bodies more than the NVTA. Ms. Pandak recommended that discussion be continued in closed session.

Mr. Tom Biesiadny updated the members on transportation funding, stating that the Supreme Court ruling invalidates approximately \$300 million. As a result of the removal of the abusive driving fees plus the lowering of other fees, urban and secondary programs will be cut significantly. The Department of Rail and Public Transportation will have to cut almost 10% from its budget. Also, the governor deferred \$180 million from 2009 to the 2010 budget.

Mr. Biesiadny distributed a handout listing the projects most likely to be delayed or cancelled due to the decrease of funds.

Mr. Connolly recommended having a press release drafted and that the project list be attached.

Mr. Nohe pointed out that many local projects are also in danger because they were based on the NVTA regional projects or were to receive funding from the NVTA program. He also pointed out that people who live in jurisdictions that are not under the NVTA funding – for example, people living in Stafford County -- also stood to gain from the projects and will now lose out on the benefits as well.

Chairman Zimmerman then briefly explained the 60/40 policy of the NVTA funds for the benefit of the audience.

Ms. Connally stated that the State is severely stressed in this fiscal year and it is only getting worse. Primary, secondary and urban projects are not being funded and are in major decline. She stated that it is a grim situation this year but will get worse if nothing is done. She pointed out that in addition to the declining revenue, the needs of the area are increasing due to increased population and costs are increasing as well due to the price of gas and materials.

Ms. Sorenson cautioned that the list of local projects to be delayed or canceled was still an open matter to be discussed and that Mr. Biesiadny's list should be only of "at risk" projects. Mr. Biesiadny confirmed that the list was in fact of "likely" projects to be delayed or canceled.

Mr. Maller then cautioned the members to take a deep breath and review the list before releasing it to the public. Mr. Maller also reiterated Ms. Connally's point regarding rising costs. He related it to the cost of steel and that due to world markets it is completely out of control of the NVTAs. The costs were just going to get steeper. He remarked that this made it unrealistic to say an increase of 3% in revenue addresses problems.

Mr. Connolly confirmed that there were five places in which transportation was losing money:

1. Supreme Court ruling
2. Abusive driver fees cut and not replaced
3. A 30-40% decline in secondary project funding
4. General transit funding cuts
5. Lost one time funds.

The above were due in part to legislative actions and in part to economic reasons.

After the above discussion, Mr. Connolly moved to approve Resolution 21-08. The motion was seconded by Mr. York

Mr. Connolly stated that nothing was more imperative than getting a budget approved. The General Assembly came up with HB 3202 to address transportation needs and did not fund it. They in essence sloughed off the responsibility to the jurisdictions. The Court threw it back at them and stated clearly that the State is responsible. He declared that the NVTAs should force it back onto the State and keep it off of the jurisdictions.

Mr. Nohe pointed out that putting it back on the jurisdictions is against the spirit of the legislation. "Traffic jams do not respect boundaries." He fears that if the jurisdictions raised money for projects they would keep it and not care about the regional aspect of it. He believes that they need to keep it regionalized to stay in the spirit of the legislation.

Chairman Zimmerman reiterated the point that a regional solution is imperative. The General Assembly has the responsibility, means and powers to fund transportation of both the State and region. He believes if the jurisdictions were to raise the funds the State would be in a position of either trying to force the money to the region or get a patchwork

of issues and solutions. He stated that the only way to get regional cooperation is to have the State create funding. He ended by encouraging people to pressure the General Assembly to solve the problem.

The motion to approve Resolution 21-08 carried unanimously.

Additionally, the chairman directed staff to draft a letter for him to sign and add a list of projects likely to be jeopardized to send to the General Assembly.

Ms. Connally posed the question “What are Metro’s views” to Mr. Zimmerman.

Chairman Zimmerman responded that Virginia is now embarrassed because we have to raise our own funds. Since there is no more dedicated funding, the NVTA funds would have greatly helped Metro. Mr. Zimmerman went on to explain that one of the projects is to replace the Metro cars. However it takes 3-5 years to do so. Additionally, Metro needs to have the funds available and be ready to move when building projects are completed. If no source of funding is found, it will have a significant impact on the Metro system.

Mr. Connolly also pointed out that other places in the world are aggressively expanding their metros and that there is a limited number of places which make Metro cars. One of the unseen costs is that without funding Metro can’t even get into line to order the cars.

Mr. Zimmerman continued by saying that not all companies even bid for projects because other areas in the world have bigger projects that they are competing for. If you don’t have a sustained reliable funding source, companies won’t compete for the business.

Item V: Update on General Assembly Activity. The Authority was updated on transportation-related activities in the General Assembly.

Tom Biesiadny noted that there are two schools of thought regarding the fixing of the funding. The first school of thought is to fix regional packages. There is some sentiment in this camp that the localities should take care of it while others want to share the responsibility. There is also a split between some who want to keep the same taxes and others who wish to create new tax packages. The second school of thought is to fix both regional and state projects. There is a mixed sentiment here as well that some say State should impose fees while others say not.

Mr. Biesiadny also stated that there is a significant amount of mistrust right now and it is unknown as to whether a solution can be reached in this session. There are currently a number of issues related to the budget and it is not clear if those can be solved before Saturday. If the General Assembly extends the session, there may be a window of opportunity for NVTA but it is highly unknown as to what will happen.

Mr. Nohe confirmed that Mr. Biesiadny gave an accurate assessment of the situation in Richmond. He feels that there does seem to be a clear recognition in the General

Assembly that there is a major problem and that the Assembly has some responsibility toward it. There is some talk of going back to earlier “pay to play” versions of the HB3202 but it is just talk right now. He feels that the NVTA area reps see the need to have money dedicated directly to the region and not spent through a formula. The big question is when to take it up. There is a forward motion but it is slow.

Mr. Connolly brought up HB 451, which has passed the House and Senate, that adds a non-voting member to the NVTA. Mr. Connolly moved, and the motion was seconded by Mr. York, to urge the governor to veto HB 451. He expressed concern that this legislation could lead to a voting member at a later date and this would disrupt the delicate balance currently enjoyed by the NVTA. The motion carried unanimously. The staff was directed to draft a letter to the governor urging that he veto this legislation.

Mr. Maller then questioned Mr. Biesiadny as to what the best case scenario timing would be. Mr. Biesiadny replied that the Assembly does not want to hold a special session unless there is a feasible fix. He also stated that it was highly possible that the NVTA would have to repeat many of the same steps as last year. Whereas an emergency clause might allow things to happen quicker, the soonest regular session legislation would take effect would be July 1, 2008.

Mr. Nohe asked whether monies already collected by the various garages should be submitted to the NVTA.

Mr. Mason confirmed that all monies in the pipeline need to be remitted to the NVTA.

Mr. Nohe also inquired whether the NVTA is required to make refunds even to those who do not wish it. Mr. Zimmerman responded yes.

Following a brief discussion on the legal implications associated with the Supreme Court ruling, Chairman Zimmerman moved, and Vice Chairman Nohe seconded, a motion to go into closed session under the provisions of Virginia Code to address legal matters relating to the implementation of HB 3202 and litigation associated with recent Supreme Court case. The motion carried unanimously. The Authority convened its closed session at 10:15 am.

The open meeting reconvened at 10:43 a.m. at which time Chairman Zimmerman moved, and Vice Chairman Nohe seconded, a motion certifying that only public business matters lawfully exempted from Virginia’s opening meetings requirements and only public business matters that were identified in the motion by which the closed session was convened were heard, discussed, or considered by NVTA during closed session. The motion carried unanimously.

Chairman Zimmerman announced the Authority will not be requesting a rehearing or other action with respect to the Supreme Court of February 29.

Item VI: Adjournment.

Approved April 10, 2008

Prior to adjournment, Chairman Zimmerman noted that a decision would be made within the next few days on whether the scheduled meeting on March 13 would be held.

The meeting was adjourned at 10:45 am.