

Approved February 28, 2018



**Northern Virginia Transportation Authority**  
*The Authority for Transportation in Northern Virginia*

**GOVERNANCE AND PERSONNEL COMMITTEE**

**Thursday, February 15, 2018**

**9:00AM**

**3040 Williams Drive, Suite 200  
Fairfax, VA 22031**

**MEETING SUMMARY**

**I. Call to Order**

Chair Randall

- Chair Randall called the meeting to order at 9:20AM.
- Attendees:
  - ✓ Members: Chair Randall: Mayor Meyer; Chair Cristol;
  - ✓ Authority Members: Mayor Rishell; Ms. Hynes;
  - ✓ Other Elected Officials: Councilmember Letty Hardi (representing City of Falls Church).
  - ✓ Staff: Monica Backmon (Executive Director); Michael Longhi (CFO); Carl Hampton (Investment & Debt Manager); Sarah Camille Hipp (Communications & Public Affairs Manager); Peggy Teal (Assistant Finance Officer);
  - ✓ Other Attendees: Tracy Baynard (NVTA Legislative Liaison as noted in item III); Ellen Posner (Counsel of Councils - Fairfax County); Tom Biesiadny (Fairfax County); Kate Mattice (NVTC); Penny Newquist (Loudoun County); Arthur Anderson (NVTA Bond Counsel); Bob Brown (Loudoun County); Ciara Williams (DRPT); Rich Roisman (TPB); Rick Canizales (Prince William County); Rob Dickerson (Counsel of Councils - Prince William County); Steve MacIsaac (Counsel of Councils - Arlington County).

**II. Approval of Meeting Summary**

- Minutes of the January 5, 2018 meeting of the GPC were approved by acclamation.

**Discussion/Information**

**III. 2018 Legislative Update**

Monica Backmon, Executive Director/Tracy Baynard, Legislative Liaison

- Ms. Backmon opened the discussion by drawing the Committee's attention to the legislative summary prepared by Ms. Baynard.

- Ms. Baynard described the progress and status of all non WMATA bills potentially affecting the Authority and then described all of the bills related to WMATA.
  - ✓ House Bill 1285 would require an annual joint public meeting to present transportation projects proposed by the NVTA, Northern Virginia Transportation Commission, the Virginia Railway Express and the Commonwealth Transportation Board.
  - ✓ Issues and concerns surrounding each bill were described and possible impacts reviewed.
  - ✓ Gas Tax Floor Bills are moving forward in the House and in the Senate:
    - One sets the Gas Tax Floor to 2013 levels.
    - One gradually phases Gas Tax Floor increases to 2013 levels.
  - ✓ All I-66 bills have been prospectively eliminated from current consideration. There are a few which may be technically active, but are effectively terminated.
  - ✓ Two WMATA Bills have “crossed over,” and are expected to be sent to conference committees for negotiation. This occurred on Tuesday February 13<sup>th</sup>. The bills are expected to be amended as they proceed to committee.
  - ✓ HB1539 would impact the NVTA through:
    - \$45 million from 30% funds for WMATA – although there are some questions regarding how the Bill is written.
    - \$30 million from existing Transient Occupancy Taxes (TOT).
  - ✓ SB 856 would impact the NVTA through:
    - \$31 million from 30% funds for WMATA.
    - \$30 million from existing Transient Occupancy Taxes (TOT).
  - ✓ One big theme is what amount is to be sent to WMATA; the Senate Bill proposed \$154 million. The House Bill, where there is resistance to tax increases, proposed \$105 million.
  - ✓ There has been reaction to proposed Grantors Tax and TOT increases by realtors and the travel industry. The northern Virginia realtors and state realtors supported the tax increase contained in the 2013 bill. Although they are now concerned about the proposed increases in this year’s bill.
  - ✓ The hotel industry did not support the TOT increase in 2013. They also do not like this year’s proposed increase, largely because they feel it places them in a bad position compared with the Maryland and DC hotels.
  - ✓ If the industry’s objections are accepted, and the tax increases are scaled back, it will create shortfalls in the funds to be sent to WMATA.

- ✓ The differences between Senate Bill 856 and House Bill 1539 were discussed.
  - ✓ Chair Cristol expressed concern regarding the claw-back provisions and reduction in NVTA revenues in HB1539, noting the Bill does not fix the WMATA issues. She pointed out the funds to be sent to WMATA are probably not bondable, the bill further restricts WMATA to a 2% annual operating budget increase and reduces their board to five members.
- The NVTA should have some comments going back to the legislature, but comments should be focused on the three C's (Constitutionality, Credibility and Creditworthiness) previously identified by the NVTA.
  - Not all the funds going to WMATA under SB856 are bondable, and in particular, the Commonwealth funds that have been identified are not bondable.
  - Both the House and the Senate Bills do not go into effect unless Maryland and DC take appropriate action. Further, there are limits put on annual WMATA budget increases, and claw-backs proposed in HB 1539, but it is not clear at what levels they will take effect.
  - Referencing former Secretary LaHood's WMATA report, it was noted it matches up well with the principles which were identified by the Authority.
  - Most of the legislators are aware of the LaHood Report and there remain items to be negotiated in each Bill. The legislators have talked with Secretary LaHood.
  - The Committee discussed the two WMATA Bills at the Federal level.
  - The Authority has been in contact with Federal representatives and is working on these issues.
  - Arthur Andersen, the Authority's Bond Counsel, spoke about bond related legal questions revolving around the bills and the potential repeal of the TOT.
  - Mr. Anderson noted, that appropriation risk was clearly disclosed in all the Authority's documents related to the 2014 Bonds.
  - Due to the Authority's continuing disclosure agreements in the 2014 Bonds, the Authority will have to file an event notice with the Municipal Securities Rulemaking Board indicating that one of the three components of the bonds' security and payment support has been taken away. This event disclosure would be required to occur, at most, 10 days from the time the Governor signs the bill into law.
  - Staff noted, there are approximately \$63 million of the 2014 bonds still outstanding; these bonds currently have a 40 times debt service coverage ratio which will drop to 38 times coverage if the TOT revenue was taken away.
  - There are multiple considerations related to the potential loss of the TOT. The NVTA needs to communicate with rating agencies, underwriters and bondholders regarding the considerations.
  - The future impacts of these two bills as proposed:

- ✓ The Authority's 2014 bond documents disclosed that the Commonwealth may eliminate the tax revenues supporting the bond's debt service. While not noted in the documents it was well understood by rating agencies that the Commonwealth had never done this before.
  - ✓ Any future NVTAs borrowing will have to disclose that the appropriation risk materialized in 2018 due to the Commonwealth's actions.
  - ✓ If this takes place, the impact will spread statewide through Agencies and Authorities having a bond structure similar to the NVTAs.
- The Authority's Financial Advisor has stated a rating downgrade could occur if one of these bills is approved.
- The Authority staff will speak with the rating agencies, noting that the rating agencies' staffs are already aware of the various proposals.
- A question was posed: what happens if a jurisdiction does not meet its Maintenance of Effort (MOE) requirements? The Council of Counsels responded that there are some differences between two of the bills regarding how they deal with the MOE requirements and the final wording of the approved bill would be controlling.
- It was noted that the Chapter 766 revenues and the use of their proceeds by WMATA may need to be monitored to avoid tripping legislative 'kill switches'.
- Concerns about jurisdictions' potential reduction of 30% funds were discussed.
  - ✓ There are concerns the Senate bill wipes out all of the Arlington and Alexandria 30% funds.
  - ✓ There was a preference expressed that localities be allowed to determine the source of funding to meet the \$31 million WMATA transfer, with 30% being an option, not a mandate.
  - ✓ A bill amendment could be created to enable localities to use any source of funds for this purpose.
- The issue of ridership from non-compact jurisdictions using Metro's services was raised with a suggestion that any revenue stream being established to help support WMATA may need to originate from the Northern Virginia jurisdictions as a group, not solely from the compact jurisdictions.
  - ✓ Council of Counsels indicated this may create legal or constitutional issues.
- An analysis of the bills other considerations has been prepared by NVTC and will be distributed by email to Authority Members.

- Ms. Baynard recommended watching events develop in Conference Committee before taking positions regarding these bills. She will prepare written comments for NVTAs use on the impacts of changes in:
  - ✓ The 30% local revenues.
  - ✓ The elimination of the TOT.
  - ✓ The 'kill switch'.

**IV. Adjournment 12:40PM**

**Next Meeting**  
February 28<sup>th</sup>, 2018 at 9AM