



Northern Virginia Transportation Authority
The Authority for Transportation in Northern Virginia

Friday, January 5, 2018
10:00am
3040 Williams Drive, Suite 200
Fairfax, VA 22031

Meeting Minutes

Public Comment

[10:00am]

Annual Organizational Meeting

- I. Call to Order** Chairman Nohe
- **Chairman Nohe called the meeting to order at 10:11am.**
- II. Roll Call** Ms. Thomas-Jones, Clerk
- Voting Members: Chairman Nohe; Chair Randall; Chairman Bulova; Chair Cristol; Mayor Silberberg; Mayor Parrish; Council Member Duncan; Mayor Rishell; Senator Black; Delegate Minchew; Ms. Hynes; Mr. Kolb;
 - Non-Voting Members: Mayor Burk; Ms. Cuervo; Mr. Horsely
 - Staff: Monica Backmon (Executive Director); Michael Longhi (CFO); Keith Jasper (Principal, Transportation Planning and Programming); Sree Nampoothiri (Transportation Planner); Harun Rashid (Transportation Planner); Peggy Teal (Assistant Finance Officer); Sarah Camille Hipp (Communications & Public Affairs Manager); Carl Hampton (Investment and Debt Manager); various jurisdictional and staff.
- III. Minutes of the November 9, 2017 Meeting**
- Mayor Parrish moved approval of the November 9, 2017 minutes; seconded by Chair Randall. Motion carried unanimously. Abstentions from Chair Cristol and Mr. Duncan.

Public Comments

Rob Whitfield, representing the Fairfax County Taxpayers Alliance, made several comments:

- Thanked Ms. Hipp, the Authority's Communications and Public Relations Manager, for notifying him about the meeting, and stated that the public needs more notice when Authority meetings are cancelled.
- Thanked the Authority for all it does and noted the progress made on completing the update to TransAction 2040.

- Challenged the Authority to find an effective way to communicate the details of the TransAction update to the public.
- Noted the decisions the Authority makes are very important to the region.
- Commented that the boards presented to the public during the Public Hearing on the Concessionaire Payment projects were void of factual information. Stated that he will ask the CTB to postpone a decision on these projects until a synopsis of information is given.
- Expressed concern about the \$40M which reflects in VDOT's December 5, 2017 meeting that showed for WMATA reserving right of way for the extension of WMATA Orange Line to Centreville.
- Vehemently opposed Governor McAuliffe's proposed budget to reallocate some funding intended for highway projects to WMATA funding.
- Stated WMATA funding will be complex and would require management changes on the WMATA board, labor union practice changes.
- Thanked the Authority for the opportunity to speak.

Action

IV. Appointment of NVTA Chairman and Vice-Chairman for CY 2018

Mayor Parrish

Mayor Parrish moved that Chairman Nohe and Chair Randall remain NVTA Chairman and Vice-Chairman respectively for CY 2018, seconded by Chairman Bulova. Motion carried unanimously.

V. Appointment of Town Representative to the NVTA for CY 2018

Chairman Nohe

Chair Randall moved Mayor Burk - Leesburg as the Town representative for CY2018, seconded by Mayor Parrish. Motion carried unanimously.

VI. Adoption of Calendar Year 2018 Meeting Schedule

Ms. Backmon, Executive Director

- Ms. Backmon presented the 2018 Authority Meeting Schedule. With a few exceptions, the Authority usually meets on the second Thursday of the month at 7pm.. Ms. Backmon proposed that February meeting be held on Thursday, February 15th, due to the Northern Virginia Transportation Commission meeting in Richmond on the 2nd Thursday of the month; no meeting in August and December meeting to be held on Thursday, December 13 at 6:00pm instead of 7:00pm, due to the Northern Virginia Regional Commission meeting.
- Chairman Bulova stated that Fairfax County is hosting a delegation meeting in Richmond on February 15th thus the proposed February date is a conflict for her.
- Chairman Nohe suggested that the March thru December dates are adopted and directed the staff to find an alternate date for the February NVTA meeting.

- Chair Randall moved that the March thru December dates be adopted, seconded by Senator Black. Motion carried unanimously.

VII. Approval of CMAQ and RSTP Transfers for Fairfax and Prince William Counties

Ms. Backmon, Executive Director

- Ms. Backmon stated that the CMAQ and RSTP transfers are to projects not previously approved by the Authority. As such, Authority approval is needed to initiate the transfer process.
- Mayor Parrish moved approval, seconded by Ms. Hynes. Motion carried unanimously.

Discussion/Information

VIII. Update on FY2018-2023 Six Year Program

Ms. Backmon, Executive Director

- Ms. Backmon noted that on October 12, 2017 the Authority adopted the update to TransAction, the first update since HB 2313 was adopted. Also on October 12th, the Authority issued a Call for Regional Transportation Projects for the Six Year Program (SYP) covering fiscal years 2018-2023. The applications for the Six Year Program were due December 15th, 2017 at noon. The Authority received 63 applications with a total cost of \$2.6 million.
- Resolutions of support are due January 19th at noon. Unofficial estimates of approximately \$1.5M in PayGo may be available for the SYP. The Finance Committee is still meeting and working on a PayGo funding level recommendation for the SYP.
- Ms. Backmon noted the Governor McAuliffe's proposed biennial budget that would impact NVRTA revenues and the available PayGo funds for the SYP. She noted that NVRTA staff is working to determine the full potential impact to the Authority. Ms. Backmon noted staff is reviewing project applications and that it is anticipated that the public comment period will start in April with the Public Hearing to be held in the spring. The schedule targets a June 2018 adoption of the SYP.
- Ms. Backmon stated that the Governor's proposed budget creates uncertainty in how much revenue will be available to populate the Six Year Program.
- Chairman Nohe opened the discussion for questions and comments from Authority members.
 - Chair Randall asked Ms. Backmon, if the uncertainty in the amount of revenues the Authority would have available for the SYP was due to the outgoing Governor's proposed budget? Ms. Backmon responded in the affirmative stating that Governor's McAuliffe's proposed budget would increase the Transient Occupancy Tax (TOT) and Grantors Tax to the amounts that the General Assembly approved in 2013. The budget proposal would also give metro 35%

off the top (including the increases in TOT and Grantors Tax) to Metro and 5% off the top to VRE. Ms. Backmon noted whatever is taken off the top would result in reductions to both the 70% and the 30% available revenues.

- Chairman Bulova posed a timeline question to Ms. Backmon related to the planned June SYP adoption, asking if there is anything significant about that date. Ms. Backmon responded stating that we would like to have the SYP adopted prior to the enactment of HB 2137 which goes into effect July 1, 2018.
- Chair Randall questioned if there will be any schedule changes to the SYP. Ms. Backmon confirmed that as of now, the program development is still on schedule, but the schedule is very tight.
- Chairman Nohe noted the desire of many to discuss the Governor's proposed budget. He asked Ms. Baynard to address possible Metro funding bills and anything else that effects the NVTAs. Ms. Baynard responded that stating that we are still in the pre-filing part of the of the General Assembly session. She noted, there are very few bills filed. However, there is one SB 141 regarding amending HB 2313 language to insert verbiage regarding the funding of sidewalks. Ms. Baynard noted that HB30, the Commonwealth's budget bill, is the only budget language we have at this time, about the outgoing Governor's proposed Metro funding. There is budget language in the transportation part of the budget that lays out the increase of taxes and the appropriation of funds off the top from the NVTAs. Ms. Baynard confirmed that we don't have a technical bill that may speak to other implementation items in that proposal.
- Chairman Nohe asked Ms. Baynard if there was a proposed bill to accompany the HB 30 budget bill regarding the revenue increases that were proposed by the Governor that would explain how the break outs would work. Ms. Baynard stated that she believes there will be a technical bill from the administration that will be coming forth.
- Chairman Bulova noted she has said some positive things about the Governor putting a vehicle on the table to be worked with regarding Metro funding. Chairman Bulova added that sincerely doubts the proposal that the Governor put forth is final, noting that the NVTAs needs to express concern regarding constitutional issues and our bond validation that we don't want to see undone. She noted that with the proposed changes to the stream of revenues NVTAs is able to use for transportation, there are a number of things that are not okay with the proposed budget. Chairman Bulova stated that she appreciates that there is something to work with as it relates to changes to provide additional funding for Metro, but the proposal has serious flaws. She stated that NVTAs has a responsibility to make sure those are understood by the Governor, the new administration and members of the General Assembly; so that the

result is something that is helpful and not hurtful for the NVTA and Metro funding, which is critical. Chairman Bulova reiterated that one of our major priorities is that we have a functional Metro system. She stated that the proposal needs to be changed and the Authority members will need to pay close attention to how it changes to protect NVTA.

- Senator Black noted that his understanding that he proposed budget would take away a third of our highway funding and to put that into mass transit.
- Ms, Hynes noted that it's not just highways that would lose funding. Funding would be reduced for the 70% regional fund and the 30% local distribution fund. Noting that NVTA funding can be used for both highway and transit. Chair Randall further clarified that the impacted funding is not solely for highways.
- Senator Black questioned if the Governor's proposal were to go through are we saying this would undermine the viability of existing bond obligations that we have undertaken? Ms. Hynes responds that is a concern that needs to be addressed.
- Chairman Nohe noted that as of right now, we are receiving very rough numbers regarding the potential impacts of the proposal. The NVTA receives something in the order of \$320M annually and right now 70% is retained by the Authority to fund a variety of capital projects. He added that he doesn't want to categorize our 70% fund as being a highway fund, because it's utilized for both highway and transit projects. He highlighted that the Authority has put hundreds of millions of dollars toward transit projects, including money for Metro projects; the distinction is that 30% flows back to the localities where the money was raised. He continued that the important distinction is that under the current code we can fund transit capital projects, but may not pay for any transit operations nor can we pay transit maintenance or replacement unless the maintenance or replacement also serves to expand capacity. He stated that part of the Governor's proposal is to increase the regional Grantors Tax and the regional hotel tax to the tune of about \$55M, which would become NVTA funds; then take \$150M off the top and give it directly to Metro and VRE. Thus, leaving the NVTA with a smaller pie for the projects we are already funding and a smaller pie to go out as local 30% funds. Chairman Nohe presumed that the \$150M that goes to VRE and Metro would not be subject to the restriction on using the funds for maintenance and operations.
- Delegate Minchew stated that he characterizes the Governor's proposal as an understandable bad idea. The Governor is to submit a budget that will become HB 30 and SB 30. Delegate Minchew noted his grave reservations regarding the proposal to raise Grantors and TOT and use the monies for Metro and VRE.

Delegate Minchew added that he's concerned about our bond financing, and whether the budget proposal triggers some of the kill switches in the legislation; adding that there may need to be a stand-alone bill to protect the NVTA's interests. Delegate Minchew stated that the NVTA is doing an extraordinarily job based on his extensive experience.

- Chair Randall stated her agreement with Delegate Minchew, adding she speaks on behalf of the Loudoun County Supervisors.
- Mayor Rishell stated that there are individuals and entities in Richmond that have looked and continue to be looking enviously at the revenue that the NVTA brings in and she sees this as a symptom. She noted NOVA is the economic engine of the Commonwealth.
- Chair Randall expressed an assumption that if something happens with the NVTA funds that would the impact the schedule for the Six Year Program. Ms. Backmon responded stating that it depends where we are in the development of the SYP. As of now, we are scheduled to go to start the public comment period in April 2018, but we may have to push that back; noting the need to be transparent and make the public aware how much funding is available for the projects that are chosen for the Public Hearing. Right now we are on schedule, but we may have delays.
- Mayor Silberberg questioned the Authority's plan of action. She noted that we need to think about the message we are sending as the General Assembly Session is about begin noting that we have a new Governor and General Assembly members. Mayor Silberberg expressed appreciation for the intent of the proposed budget commenting that we need to dedicate revenue for WMATA, since local jurisdictions cannot shoulder this.
- Ms. Hynes responded that we need a fix for Metro's funding situation. Ms. Hynes stated that she thinks there needs to be an agreement and whatever happens, the integrity of the NVTA needs to be retained. Ms. Hynes added that it is critically important that localities are able to count on both the 30% the 70% revenues and be clear where the challenges are in the ongoing viability of the NVTA.
- Chair Randall inquired about the amount of NVTA revenues that has been allocated to Metro. Ms. Backmon responded that the total amount the Authority has programmed to WMATA/Metro is \$175M through our three funding programs.
- Chair Randall stated her appreciation for the need a fix Metro. Chair Randall followed by commenting that Loudoun County will not support opening up HB 2313 for one penny to be taken out, for anything other than it was intended to for as it will risk the NVTA AA+ bond rating. Which, as Chair Randall noted, it is the highest bond rating that an organization, such as the Authority, can achieve.

Chair Randall added that we risk bond authority, we will greatly impact the Six Year Program and thinks it should be said that we have invested significantly in Metro, to the tune of \$175M that would not have happened before. Chair Randall stated that she supports ways to right the ship of Metro noting that she supported the resolution Chairman Bulova brought forward at COG.

- Mayor Rishell stated that if the intent results in opening HB 2313 or tampering with the NVTA financially or legally, Manassas Park will not support it.
- Chair Cristol asked what orientation the body takes towards presenting a need versus identifying a solution to the General Assembly. She added, if members of the NVTA could give her some insight into, if it is advisable, for the Authority to have a role in saying, not only are these are our concerns with the Governor's proposal, but here are some alternatives. Chair Cristol mentioned that as a jurisdiction, Arlington cannot meet its Metro contributions Chair Cristol highlighted that Metro cannot be sustained without cannot be without a State fix. Chairman Nohe responded that our posture in the past is that we need some funding for Metro. He stated that it is with differing degrees of enthusiasm, depending on your locality. Chairman Nohe stated that most of the Authority's legislative activity has been very reactive. It has been the Authority trying to keep the General Assembly from diminishing our funds and our authority to allocate those funds regionally. Our principles will continue to be that NVTA's activities have to be legal and we must retain our creditworthiness. He maintained that the Authority is in a reactive posture because we have not proposed a solution up until this point. Noting that with the Authority's complex voting rules, it would be difficult to get the majority needed to endorse anything regarding a solution, at this time. (Senator Black leaves.) Chairman Nohe continued by stating he thinks the NVTA needs to be very engaged, even if there are no NVTA dollars involved.
- Delegate Minchew stated that the budget bill is the most powerful bill, it trumps everything.
- Chair Randall asked Delegate Minchew, if it is the routine of the Appropriations Committee not to talk about what is presented during the meeting. Delegate Minchew responded that basically, the Appropriation Committee, has about 40 budget amendments to squeeze into one hour. He suggested working with the members of the Subcommittee. He stated there will be a Subcommittee that will hear the budget amendments. He encouraged the NVTA to make themselves a pest to the Subcommittees.
- Chairman Nohe stated that we all agree that there needs to be a meaningful Metro funding solution. However, we have to acknowledge that various Northern Virginia localities have varying degrees of commitment to WMATA. As a body, the NVTA,

cannot put any of our member jurisdictions at odds with their local elected bodies. From his perspective, he sees his role to be the watchdog of ensuring that at all times the NVTA's actions should be legal and constitutional, and therefore by extension inoculated from legal challenges. Second, he mentioned that the NVTA needs to be credible. And third, NVTA needs to be credit worthy.

- Mayor Rishell questioned Chairman Nohe's last point, that the General Assembly has the potential to come back to us and say we can fix it. Chairman Nohe stated that if we can come up with a Metro funding bill that the region could agree on; he would be the first in line to help make sure it's legal. But right now, he doesn't know what we are reacting to yet. He noted, that based on our history, we are going to get sued. Anything that requires different uses of NVTA funds requires opening HB 2313.
- Chairman Bulova stated that this conversation has proven that this issue is complicated. NVTA's history, the legislation that created it, the funding stream that we use...is complicated. She stated, we need to be at the table, and making sure we are asserting ourselves into discussions that involve Metro funding because we need to weigh-in on what could hurt or damage NVTA. She mentioned that our economy is built around Metro and that we need to address Metro funding.
- Chair Randall agreed that the NVTA needs to be at the table and questioned do we have some responsibility to discuss a solution. Chair Randall added that just saying no is not as responsible as we could be and perhaps we can suggest another/better solution.
- Chair Cristol questioned the \$175M programmed for Metro projects. Chairman Nohe confirmed that number.
- Chair Randall agreed that there are different ways to manage the money in the context of the existing legislation depending on the proposals. Chair Bulova stated as a body the Authority can't be at odds with our localities, we can't advocate for something that there's a disagreement about. Chairman Nohe clarified that he was not suggesting that as a core principle. Rather, he was suggesting that as a practical matter, we occasionally take non-unanimous votes. He related acknowledging a reality of this situation about getting 2/3's of the members and 2/3's of the jurisdictions and 2/3 of the population of the region to agree on anything. Chairman Nohe apologized for the confusion stating that he thinks all Authority members recognize that the general assembly is going to do what it wants to do and we, as regional body, are always in the reactive position. Over the next two months, he suggested looking at how we can influence what the final signed bill looks like, to minimize the degree to which we have to adapt.
- Chairman Bulova stated we should say that the administration has also agreed to fix the transit cliff as part of this whole package.

There shouldn't be a doubt that the vast majority of that \$110M comes to Northern Virginia to support Fairfax Connector, DASH, OmniRide and all our local bus services. Chairman Bulova added that if the transit cliff doesn't get fixed, then our jurisdictions are back deciding how to fund that.

- Chairman Nohe stated that there are plenty of things in the Governor's proposal to like. As we always do, we react to the parts we don't like first.
- Mayor Parrish questioned whether there should be a motion on certain things. He went on to state that we need to represent NVRTA and its regional perspective in the legislature this year. Noting, he trusts there will be a lot of time spent in Richmond this year.
- The Authority suggested that talking points centered on keeping the constitutionality, credibility and creditworthiness of the Authority in tact as conversations as held in Richmond.
- Ms. Hynes mentioned that once talking points are developed, everyone should get a copy; so we can be viewed as cohesive and on the same page.
- Chairman Nohe stated that he is available to talk about this in Richmond, with at least two hour notice. He will attempt to keep people notified as to when he will be going to Richmond.
- Chairman Nohe mentioned that the NVRTA has been through this before, and that we're very good at advocating for the region. The Virginia General Assembly is celebrating its 399th this year and he is confident that come July 1, there will be a Metro funding solution and there will an NVRTA.

IX. Executive Director's Report

Ms. Backmon, Executive Director

- Ms. Backmon noted that the CTB will meet next week to take action on the MOU between the NVRTA and the Commonwealth regarding the \$500M concessionaire payment. At the November meeting the Authority authorized the Executive Director to enter into an agreement with the Commonwealth per Authority ratification. VDOT held a Public Hearing on the projects the Authority recommended for funding on January 4, 2018.

X. Chairman's Comments

- Chairman Nohe will reach out to individuals about committee updates and appointments, once it's finalized, an email will be distributed.
- Chairman Nohe made a motion to enter closed session at 12:23p, as authorized by Virginia Code section 2.2-3711A.1, for the purpose of discussing a personnel issue, seconded by Chair Randall.
- Chairman Nohe reconvened the open meeting at 12:40pm. Chairman Nohe moved (1) that only public business matters lawfully exempted from open meeting requirements under Chapter 37, Title 2.2, of the Code of Virginia; and (2) only such public business matters as were identified in the motion

by which the closed meeting was convened were heard, discussed or considered by the Committee, seconded by Chair Randall.

Closed Session

XI. Adjourned, 12:42p

Correspondence
Next Meeting: TBD