

National Capital Region Transportation Planning Board

777 North Capitol Street, N.E., Suite 300, Washington, D.C. 20002-4290 (202) 962-3310 Fax: (202) 962-3202 TDD: (202) 962-3213

Item #5

MEMORANDUM

July 15, 2010

TO: Transportation Planning Board

FROM: Ronald F. Kirby
Director, Department of
Transportation Planning

RE: Letters Sent/Received Since the June 16th TPB Meeting


The attached letters were sent/received since the June 16th TPB meeting. The letters will be reviewed under Agenda #5 of the July 21st TPB agenda.

Attachments

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
777 North Capitol Street NE
Washington, DC 20002

Date: June 21, 2010

To: COG Board of Directors
National Capital Region Transportation Planning Board
Metropolitan Washington Air Quality Committee
Chief Administrative Officers Committee
Regional Attorneys Committee

From: David Robertson, Executive Director 

Subject: COG Legal Support

I am pleased to report that the Metropolitan Washington Council of Governments (COG) has selected the law firm of Greehan, Taves, Pandak & Stoner, PLLC to provide legal support and serve as COG's general counsel, effective July 1, 2010. Greehan, Taves, Pandak & Stoner brings significant legal experience to COG representing public sector clients, including several local governments in the National Capital Region.

Earlier this year I advised the COG Board of Directors that COG would seek legal support on a contract/retainer basis following Lee Ruck's decision to retire from his position of General Counsel after eight years of steadfast support to COG. Mr. Ruck will retire June 30. Mr. Ruck has agreed to be available for consultation for the period July 1 through December 31 to ensure a smooth transition to Greehan, Taves, Pandak & Stoner and complete any pending tasks.

In evaluating how to best meet COG's legal support needs, I concluded, with Mr. Ruck's feedback and senior management and COG Board input, that a retainer agreement will ensure that COG receives competent and cost-effective legal support. This approach is also used by many of COG's peer regional councils and metropolitan planning organizations.

COG issued a request for qualifications on March 31 that was widely disseminated to area law firms. COG held a pre-bid meeting on April 22 attended by representatives from 13 firms. Fifteen firms submitted proposals on May 14. Proposals were reviewed and three firms were selected for interview on June 3. The Chair of the COG Regional Attorneys Committee participated in the review and selection process.

Greehan, Taves, Pandak & Stoner was established to provide outside legal consultants and litigation counsel for local governments. The firm focuses on representing localities and other public entities, as well as non-profits interested in public policy. Its attorneys have more than 100 cumulative years of experience working for, or on behalf of, local governments at the local, state and federal levels. Ms. Sharon Pandak will serve as the primary attorney for COG. Ms. Pandak worked for Prince William County, Virginia for 25 years, including 15 years as the County Attorney.

I will introduce Ms. Pandak to the COG Board of Directors and other policy boards beginning July, and of course, she and the attorneys and staff of Greehan, Taves, Pandak & Stoner will be available to COG and its policy boards, committees and staff as necessary to ensure sound legal representation and support for COG

Please contact me if you have questions or need additional information. I may be reached at 202-962-3260 or [drobertson@mwco.org](mailto:d Robertson@mwco.org).

National Capital Region Transportation Planning Board

777 North Capitol Street, N.E., Suite 300, Washington, D.C. 20002-4290 (202) 962-3310 Fax: (202) 962-3202

June 16, 2010

Mr. Craig Smith
CEO
Martz Group
10411 Hall Industrial Drive
Fredericksburg, Virginia 22408

Dear Mr. Smith:

Thank you for your letter dated January 21, 2010 regarding Federal Assistance for Commuter Bus Service from Fredericksburg to Washington, D.C. provided by Martz National Coach Works Inc. of VA.

You have requested that the National Capital Region Transportation Planning Board (TPB) support a project in its TIP to benefit commuter bus service from the Fredericksburg area based on additional Section 5307 allocations generated through reporting to the Federal Transit Administration (FTA) National Transit Database (NTD).

TPB staff has been reviewing your request in concert with our member agencies and jurisdictions, and has identified the following key questions and issues which warrant your further response:

1. As you know, one of the transit recipients in the Washington metropolitan region would have to be willing to assume responsibility for either entering into a contractual agreement with Martz or buying and then leasing federally qualifying assets for Martz, per circular C 9030.1D dated May 1, 2010. In either case, there would be administrative responsibilities that the transit recipient would have to shoulder since the recipient would have an obligation to insure that Martz is in full compliance with federal rules (e.g., FTA charter regulations, procurement, drug and alcohol testing, restrictions on permissible uses of the federally funded assets, auditing, EEO requirements, DBE requirements). Has Martz confirmed the existence of a willing recipient? Is Martz proposing to provide matching funds required for the federal transit allocations it is requesting?
2. After reviewing similar arrangements in other metropolitan areas, notably in New York, we believe that in excess of ten (10) percent of the earnings may have to be allocated to the recipient to cover administrative responsibilities. Does Martz have documented experience from other areas on the magnitude of these administrative costs relative to the additional earnings?
3. There is a great deal of interest on our behalf in learning more from you on how proposed projects outlined in your letter, such as preventive maintenance, bus procurement, and Capital Cost of Contracting, would be of benefit to the region and to the commuting public. Like any other prospective use of federal funds, the region's decision-makers want to be satisfied that there is a public benefit commensurate with the investment. What does Martz envision as this

public benefit? For example, one benefit could be reduced transit fares for Martz' bus service or some improvements in service.

4. Martz also needs to provide the calculation on potential earnings from the Section 5307 funding as a result of reporting its miles to the NTD. Please note that there is a precedent already established in the region related to the distribution of Federal 5307 formula funds. The Federal 5307 formula earnings that are associated with those bus agencies that are members of the WMATA go to WMATA. For those bus agencies that are not members of the WMATA compact only those Federal 5307 formula funds earned outside the compact area are the subject of the "split letter" calculations; those funds earned inside the compact area go to WMATA. Martz would be expected to comply with this precedent and therefore must provide the breakdown of the NTD information between inside the compact area and outside the compact area.

While we are receptive to working with Martz on this initiative and have been consulting with our designated recipients on this matter, it is essential that we obtain this additional information and clarification in order to move forward in considering your request. I should note that since a precedent set with Martz will likely lead to similar requests from other privately operated commuter bus companies serving the Washington metropolitan region, the TPB's evaluation of Martz's proposal will need to consider the implications of others seeking the same accommodations.

We look forward to your response. Please contact Ronald Kirby, staff director for the TPB, at (202)962-3310 if you have additional questions or need further information.

Sincerely,

A handwritten signature in black ink, appearing to read 'DS', with a long horizontal line extending to the right.

David Snyder
Chair, National Capital Region
Transportation Planning Board

cc: Barry M. Hecht



HOPE HALLECK
CLERK TO THE
COUNTY BOARD

ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE COUNTY BOARD

2100 CLARENDON BOULEVARD, SUITE 300
ARLINGTON, VIRGINIA 22201-5406
(703) 228-3130 • FAX (703) 228-7430
E-MAIL: countyboard@arlingtonva.us



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MARY HYNES
J. WALTER TEJADA

June 22, 2010

Northern Virginia Transportation Coalition
7600 Colshire Drive, Suite 215
McLean, Virginia 22102
Attention: Robert O. Chase, President

Dear Mr. Chase:

I am writing in response to the May 28, 2010 letter signed by you and a number of representatives of business interests in Northern Virginia requesting the Arlington County Board to withdraw its lawsuit regarding the I-95\395 HOT lanes project and work with the Commonwealth of Virginia to advance the project.

You may be surprised to learn that Arlington has attempted to engage the Commonwealth in constructive discussions about its concerns with the project for some time, both before and since the suit was filed. Notwithstanding the County's efforts, the Commonwealth has been unresponsive.

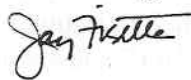
As is true for all of the localities within the project corridor, Arlington has a number of concerns about whether HOT lanes are the best way to address the serious transportation problem in the I-95\395 corridor. However, it has never been the County's goal to prevent the project from advancing. The HOV lanes have for more than forty years contributed greatly to the movement of people both through transit and high occupancy vehicles, and any changes to those lanes must not degrade that success. Arlington recognizes, nonetheless, that the highway is a Commonwealth asset and the Commonwealth has the authority to determine how it is used, including for commercial use by a private entity. Accordingly, Arlington's objectives have consistently been to protect the movement of people so the HOV lanes are not sacrificed for private financial gain, and to properly analyze and mitigate secondary impacts, such as traffic impacts on local roads and air quality degradation.

Arlington has concluded that the categorical exclusion granted by the Federal Highway Administration was improvidently granted. It is apparent that the analysis done by the Commonwealth and its private partner was deficient in a number of respects. The assurance the Commonwealth repeatedly provides that, to quote your letter, "the HOV lanes will operate better than they do today and support increases in carpooling and buses" is based on this flawed analysis. Arlington maintains that further analysis in several areas should be performed to correct the analytic deficiencies in what has been done to date. It is essential that this be done to avoid the certain gridlock that will engulf the HOV lanes and local streets at each access point, and further degrade the already seriously impaired air quality in the corridor. This further analysis can be done in a short period without extraordinary cost, and is expected to identify impacts that will need to be

addressed in the project design. Such analysis is something no one should object to. Whether it confirms conclusions reached by the Commonwealth, or identifies where additional mitigation measures are needed, the time and expense are investments to ensure not only that the project functions as the Commonwealth says it will, but also so we all do not come to regret committing the HOV resource to private hands.

As I said, despite overtures by the County to discuss a solution, the Commonwealth has thus far not responded. The concern you have expressed that the Commonwealth cannot re-examine design and access issues while the suit is pending is unfounded. The Commonwealth has consistently been re-examining design and access issues, and continues to do so. The suit precludes nothing including constructive, confidential settlement discussions. There are those who say the Commonwealth has no present intention of advancing the project and prefers to blame this on Arlington. I do not subscribe to this view and remain hopeful the Commonwealth will engage Arlington in good faith discussions so that the County's concerns, and the Commonwealth's interests, can advance.

Sincerely,



Jay Fisette
Chair

cc: Bob McDonnell
Sean Connaughton
Tina Leone
W. Shaun Pharr
Richard Doud
Eileen D. Curtis
Stuart Mendlesohn
Mark S. Ingrao
Nancy-jo Manney
James C. Dinegar
Laszlo (Les) Eszenyi
Anthony Howard
Martha D. Marks
Christine M. Todd
Vincent N. Butler
Robert O. Chase
Deborah L Jones
Laurie C. Wieder

Miles Friedman
Keith S. Turner
Diane Poldy
Leo Schefer
Scott York
Robin Gardner
William Euille
Sharon Bulova
Hal Parrish
Frank C. Jones
Corey Stewart
Robert F. Lederer
Ron Kirby
Catherine Hudgins
Rick Taube
Carol Mathis
David Robertson

NVTC Northern Virginia Transportation Commission

RESOLUTION #2153

SUBJECT: I-95/395 HOT Lanes Request.

WHEREAS: Since the Commonwealth of Virginia's announcement of its intent to enter into a public private partnership for the construction and operation of high occupancy toll lanes in the I-95\395 corridor ("HOT lanes project"), the Northern Virginia Transportation Commission has raised a number of issues including the reliability of traffic modeling used in the project, impacts on transit and HOV usage, traffic congestion at access and egress points, safety, and impacts on local streets and neighborhoods;

WHEREAS: The Northern Virginia Transportation Commission's 2009 and 2010 legislative agendas included requests that contracts with the private sector involving conversion of existing High Occupancy Vehicle facilities to High Occupancy Toll facilities include protections ensuring that no deterioration in safety and levels of performance of transit services and high occupancy vehicles occurs, that local government concerns with congestion at points of access and egress and on parallel local streets are openly and meaningfully addressed, and that compensation will be provided to local governments forced to incur expenses to relieve congestion at access and egress points;

WHEREAS: Individual member jurisdictions of the Northern Virginia Transportation Commission directly impacted by the HOT lanes project have expressed concerns, including but not limited to Fairfax County in its April 13, 2009 letter to VDOT's District Administrator, Arlington County in its January 27, 2009 resolution, and the City of Alexandria in its March 24, 2009 resolution;

WHEREAS: The foregoing Northern Virginia Transportation Commission member jurisdictions have recently met to review the issues they have raised individually, and agree that the Commonwealth must fully respond to these issues in a satisfactory and comprehensive manner before the HOT lanes project proceeds further;

WHEREAS: The concerns raised by each of these jurisdictions are consistent with those expressed by the Northern Virginia Transportation Commission and require serious consideration and complete responses by the Commonwealth prior to consummation of a comprehensive agreement with any private partner; and



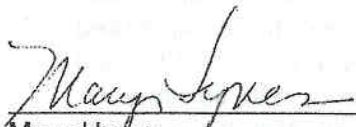
4350 N. Fairfax Drive • Suite 720 • Arlington, Virginia 22203
Tel (703) 524-3322 • Fax (703) 524-1756 • TDD (800) 828-1120
E-mail nvtc@nvtdc.org • Website www.thinkoutsidethecar.org

WHEREAS: The Northern Virginia Transportation Commission believes that the Commonwealth should not delay in addressing the foregoing concerns so that the HOT lanes project can move forward promptly and in a manner that provides all necessary assurances described above.

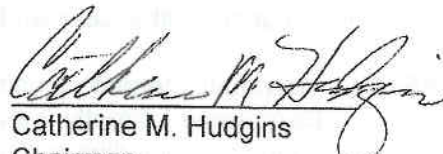
NOW, THEREFORE, BE IT RESOLVED that the Northern Virginia Transportation Commission hereby requests the Commonwealth of Virginia to promptly engage Fairfax County, Arlington County, and the City of Alexandria in a constructive dialogue to address the issues raised by those jurisdictions, with the objective of resolving those issues to all parties' mutual satisfaction thereby permitting the project to proceed with all parties, and the public, confident that the transfer of the high occupancy vehicle facility to private, commercial control will not only benefit transportation in the corridor but will not adversely impact the local jurisdictions and residents along the corridor; and

BE IT FURTHER RESOLVED that the Northern Virginia Transportation Commission hereby directs the Executive Director to transmit this resolution to the Secretary of Transportation for the Commonwealth of Virginia.

Approved this 1st day of July, 2010.



Mary Hynes
Secretary-Treasurer



Catherine M. Hudgins
Chairman

JUN 16 2010



City of Alexandria, Virginia
301 King Street, Suite 2300
Alexandria, Virginia 22314



William D. Euille
Mayor

City Hall: (703) 838-4500
Home: (703) 836-2680
Fax: (703) 838-6433
alexvamayor@aol.com

June 15, 2010

Mr. Ron Kirby
Metropolitan Washington Council of Governments
777 North Capitol Street, N.E. Suite 300
Washington, DC 20002-4290

Dear Mr. Kirby:

The City of Alexandria is providing this letter to outline our financial commitment to the FY 2011 (fall 2010 and spring 2011) Street Smart Safety Campaign. We are pleased to inform you that Alexandria will once again contribute \$7,000 to the Street Smart Safety Campaign. We are pleased to partner with other local jurisdictions on this important annual effort and pleased to learn of the program's effectiveness. However, we believe that this annual contribution should be worked into the Council of Governments' regular budget and not be a separate requested and billed item.


Please forward the invoice to:

Mr. Yon Lambert
Principal Transportation Planner
Transportation & Environmental Services
301 King Street, Room 3200
Alexandria, Va. 22314

Should you have any questions about Alexandria's efforts, please contact Mr. Lambert at yon.lambert@alexandriava.gov or 703.746-4081.

Thank you for your efforts on this program that addresses pedestrian and bicyclist safety, one of our region's most critical needs.

Sincerely,


William D. Euille
Mayor

cc: ✓ David Robertson, Executive Director, Metropolitan Washington Council of Governments

"Home Town of George Washington and Robert E. Lee"

From: Drake Wauters [mailto:drake@wauters.com]
Sent: Monday, July 05, 2010 9:15 AM
To: Dave Robertson
Subject: Transportation
Sensitivity: Confidential

Dear David,

I was shocked this morning to hear that there have been 22 close calls over the DC area in the skies recently due to inexperienced controllers.

Transportation is still such a crippling problem in the DC area yet this region is the nerve center of the nation.

I applaud the new web site and the increased real oversight of Metro but The COG really needs to do more to enhance cooperation between jurisdictions on road, bus, rail, and air improvements for the region.

The COG needs to be the smart leader in pursuing these regional needs:

1. Encourage telework and cloud employment solutions to stem the need for rush hours.
2. To double the transportation options between Maryland and Virginia including the completion of the MD ICC and VA Fairfax Parkway outer loops across the rivers.
3. To increase the transportation options between Montgomery County and DC.
4. Force through a return to excellence on Metro rail which was lost several decades ago. Few remember this but Metro stations were designed for 8 car trains due to the automation first designed in to the system. They now brag about 6 car trains but still do not reach the true potential the Metro designers foresaw in the 1960s due to failed automation systems. The occurrence of fires at Metro are high and simply due to bad maintenance. Metro rail is decades from a return to excellence if it can ever be achieved.
5. Bus service is the true wonder that has been returning to the Metro area but there is so much to be done to increase ridership on this expandable and flexible alternative to cars and Metro rail.
6. Air traffic is growing every year around DC and it has to be supported with better quality control of air traffic control, TSA screening capacity, and ground transportation options such as access to BWI from NoVa which should be connected by regular bus lines.

I've lived here since 1969 and see that the biggest problems now are the poor connections between MD/VA and failing Metro rail. But elimination of miles driven in private cars each day should be the overall goal to stem climate change and the social costs of long commutes and burdensome transportation projects.

Thank you for listening.

Best Regards,
Drake Wauters
Box NN
McLean, VA 22101