



MEMORANDUM

TO: TPB Technical Committee
FROM: Lyn Erickson, Plan Development and Coordination Program Director
SUBJECT: Proposed Amendments to TPB Bylaws to allow totally remote attendance and voting at meetings when an emergency exists
DATE: March 27, 2020

As you are aware, the National Capital Region Transportation Planning Board (TPB) currently has no provisions in its Bylaws to hold a virtual (wholly electronic) board meeting. Due to the current national, state and local public health emergency circumstances associated with the COVID-19 virus, a virtual meeting of the Board was held on March 18, 2020 as an emergency measure to act on several time sensitive matters. The TPB's legal staff reviewed and found no federal provisions that require a Metropolitan Planning Organization, like the TPB, to meet in person. The TPB's legal staff also affirmed that the TPB was not subject to any person open meeting provisions of Freedom of Information/public meeting acts of the District, Maryland or Virginia. Of course, the TPB gave notice of its March meeting and enabled public access to the proceedings (<https://www.mwcog.org/events/2020/3/18/transportation-planning-board/>).

This event highlighted the need to amend the TPB Bylaws to add provisions that would define the circumstances under which virtual meetings of the Board could be held in the future when necessary. At the March 18, 2020 virtual meeting, the Board provided notice of its intent to amend the Bylaws to add a virtual meeting provision and released the proposed text (attached) for public review and comment.

The proposed changes are intended to clearly enunciate the provision for convening a virtual meeting of the TPB (using a telephone conference call, videoconference, or online combination using the internet and/or telephone lines). Proposed changes to the text of the Bylaws are in strikethrough and/or underline font and can be found in Section IV (page 3), Section IX (page 7) and Section X (page 8).

Current plans are to have the TPB consider the proposed changes to the Bylaws and act on them at its April 15, 2020 meeting. Please let me know if you have any editorial corrections by April 6, 2020.

Attachment: as stated

BYLAWS OF THE NATIONAL CAPITAL REGION TRANSPORTATION PLANNING BOARD

As Amended February 15, 2017

*Proposed amendments from the March 18, 2020
meeting*



National Capital Region
Transportation Planning Board

I. FUNCTIONS

The Transportation Planning Board (TPB), serving as the Metropolitan Planning Organization for the Metropolitan Washington Area, shall be responsible for the development of policies of regional significance (having "significant" interjurisdictional effects in terms of financing, transportation service, location, staging, and/or socio-economic, land use, or environmental impacts), and necessary procedures for the effective implementation of Title 23, Section 134, and Title 49, Section 5303 et seq., of the United States Code concerning a metropolitan transportation planning process. The TPB's functions include, but are not limited to, organization and management direction of the planning process, actions related to securing of Federal aid funding for the planning process and matching funding by the signatories of the Agreement, publication of progress reports describing the time, cost, and technical detail of the planning program, and distribution of minutes of its proceedings.

II. RELATIONSHIP WITH THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

In July 1966, the TPB and the Metropolitan Washington Council of Governments (COG) jointly adopted a plan for associating the two organizations, under which the TPB may also serve as the transportation policy committee of COG. The purpose of the plan is to improve coordination between the TPB's transportation planning process and COG's comprehensive regional planning process, and to achieve economies and efficiencies through joint staffing and administration of these two activities. Under this arrangement, the TPB uses COG's forecasts of land use, population and employment as the basis for developing transportation plans and programs consistent with the area's growth policies. This association does not in any way impinge upon the basic responsibilities of the TPB as the designated Metropolitan Planning Organization for transportation planning in the Washington Metropolitan Area.

III. MEMBERSHIP AND TERMS

The TPB shall be composed as follows:

- a. One (1) elected member from each of the local governing bodies of the cities and counties in Maryland and Virginia participating in COG. In addition, membership may include one (1) elected member from the governing body of any other city or county recommended for membership by a majority vote of the TPB based on the substantial interests such jurisdiction has in the metropolitan planning process. Participation of such non-COG members shall be conditioned on such jurisdiction contributing to the financial support of the planning process in an amount determined by the TPB;
- b. Those cities or counties of Maryland and Virginia that participate in the TPB which have a population greater than 400,000 shall have one (1) additional member selected as follows:

1. The County Executive or his designated representative, if the form of government includes an elected County Executive, or;
 2. One (1) additional elected member of the local governing body, if the form of government does not include an elected County Executive.
- c. Four (4) members from the Government of the District of Columbia, two (2) of whom shall be members of the Council, and two (2) from the executive branch. One (1) of the executive branch members shall be from the Department of Transportation.
 - d. One (1) member from each of the Departments of Transportation of Maryland and Virginia, and one (1) member representing the Washington Metropolitan Area Transit Authority (WMATA);
 - e. One (1) member each from the House and Senate of the Maryland and Virginia General Assemblies and one (1) additional member from the Council of the District of Columbia. Such members and their alternates shall be selected from the members of the General Assemblies representing portions of the Washington Metropolitan Area, and the Council of the District of Columbia, respectively. Alternates for these members shall also be members of the General Assemblies or the Council of the District of Columbia, respectively.
 - f. One (1) member each from the National Capital Planning Commission, the Metropolitan Washington Airports Authority, the Federal Highway Administration, the Federal Transit Administration, the Federal Aviation Administration, and the National Park Service. Each member in this category shall be non-voting, but shall be entitled to offer and second motions and resolutions and otherwise enter into deliberations of the TPB.

Designated alternate representatives of the local government representatives must be appointed by their local governing body. If the designated alternate representative is not an elected official or an employee of the participating jurisdiction's government, then the participating jurisdiction's governing body must adopt a resolution appointing the "external candidate" based on his/her qualifications and expertise to adequately represent the jurisdiction as an alternate representative. Designated alternate representatives of the Departments of Transportation must be appointed by their respective Departments. Designated alternate representatives of the WMATA must be appointed by the Board of Directors.

Members shall serve until replaced by the organization they represent. Changes in jurisdictional membership (but not individual appointments) shall be endorsed by the Governor of the State from which local government membership is requested.

IV. TIME AND PLACE OF MEETING

- a. The TPB shall hold regular meetings in January, March, April, May, June, September and November. Special meetings may be called by the Chairperson at any time on ten (10) days notice in writing of the time, place, and general business to be transacted. The Chairperson shall call a special meeting of the TPB on the request of not less than one-third of the voting members of the TPB, or as required under Section VIIa(7).

- b. A member may be deemed “present” at a meeting through physical means or electronic communication means from a remote location with listening, speaking and voting capabilities, only as follows: The member shall give at least three (3) days’ notice to the Director of Transportation Planning by either email or telephone, and indicate the remote location, acceptable to the TPB staff and which does not have distracting noise, from which the member will participate. Upon receipt of such notice, the Director of Transportation Planning shall advise the TPB by email or telephone, or the Chairperson will announce electronic participation at the beginning of the TPB meeting. Electronic presence is only permitted if there is a quorum physically present at the location of the meeting, unless the provisions of subsection c. below apply.
1. Such participation by the member shall be limited each calendar year to two meetings or 25% of the meetings of the TPB, whichever is fewer. The limitation shall apply to both the member and the member’s alternate.
 2. Electronic participation is contingent upon the ability of TPB staff to make the necessary arrangements for the voice of the remote participant member to be heard by all persons at the central meeting location.
 3. The following procedures shall apply when a member is attending electronically:
 - i. The member shall verbally identify at the beginning of the meeting that the member is present electronically; and announce if the member is departing from the meeting, unless the meeting has adjourned;
 - ii. The member attending electronically shall verbally ask for recognition from the Chairperson if the member desires to speak;
 - iii. Votes taken during any meeting, when a member is attending electronically, shall be recorded by name in roll-call fashion and included in the minutes. The member attending electronically shall indicate his/her vote verbally when requested by the Chairperson;
 - iv. All other Bylaw provisions apply.
 4. The Chairperson may determine that no electronic attendance is permitted at certain meetings of the TPB, or limit the number of electronic attendees to no more than four (4) based on a first notification basis. The Chairperson has the discretion to waive the three (3) days advance notice.
- c. Meetings may be held by telephone conference call, videoconference, or online combination, upon the direction of the Chairperson or a Vice Chairperson, if the Chairperson is not available, after consulting with the Vice Chairpersons, if possible, and the Director of Transportation Planning. If possible, three (3) days’ notice shall be given to the members by either email or telephone, which notice shall include the specific steps necessary to access the meeting. Such direction shall only be given upon a determination that a face-to-face meeting is effectively precluded by emergency conditions affecting public safety or public health, travel or other considerations. Insofar as possible, all matters requiring a vote shall be proposed in writing and furnished to members at least three (3) days prior to the meeting.

Commented [SR1]: Mendelson’s proposed edit.

V. OFFICERS

Officers of the TPB shall consist of a Chairperson and two Vice Chairpersons who are voting members. Terms of office shall be for one year, from January 1 to December 31. Election of officers shall take place at the regular November meeting. Neither the Vice Chairpersons nor Chairperson shall be a representative of the same State or agency. If a vacancy occurs in the office of any of the officers, his successor shall be elected from the same State to complete the unexpired term, such election to be held at any regular meeting of the TPB.

DUTIES OF OFFICERS

The Chairperson of the TPB shall preside at all meetings and appoint all committees, and shall perform such other duties as the TPB may from time to time order.

The Vice Chairperson shall preside at meetings in the absence of the Chairperson, shall assist the Chairperson, and shall act in the absence of the Chairperson.

The Department of Transportation Planning staff shall be Secretary of the TPB. The staff shall be the custodian of all records of the TPB and shall keep accurate minutes of the meetings of the TPB. Minutes of the TPB shall be disseminated to members of the TPB and their alternates as well as to non-member jurisdictions in the region. The staff shall, on behalf of the TPB, certify, when required, copies of records, and shall perform such other duties as may be directed by the TPB. The staff shall also maintain the official copy of the Bylaws of the TPB, and shall enter upon such official copy all duly adopted modifications and amendments.

VI. QUORUM AND VOTING PROCEDURES

- a. Ten (10) voting members or their alternates, to include at least one (1) voting member or alternate representing the District of Columbia, Maryland, and Virginia, shall constitute a quorum of the TPB.
- b. Each representative from the State Departments of Transportation (including the District of Columbia), the WMATA, the General Assemblies of Maryland and Virginia and the Council of the District of Columbia appointed under Section III d, and the participating local governments shall be entitled to cast one (1) vote, except on any matter for which the alternate voting procedure provided for under Section VI d is invoked, in which case only the votes of the representatives designated under Section VI d shall be counted.
- c. Except for amendments to the Bylaws which require a majority vote of all the voting members of the TPB, whether taken on a regular or proportional voting basis, all actions, including all actions decided on the basis of the alternate voting procedure provided for in Section VI d, shall be by a majority vote of those present and voting, provided that the extent of financial participation by any jurisdiction, agency or public body shall be determined only with the concurrence of that jurisdiction, agency, or public body.

- d. Any voting member may require that the vote on any matter brought before the TPB be decided on a proportional voting basis provided for in this Section VI d. A proportional vote may be called for either instead of voting on a regular basis as provided in Section VI b or subsequent to a vote taken in accordance with Section VI b, provided, however, that such a subsequent vote shall be at the same meeting. For this purpose, five (5) votes each shall be assigned to Maryland, Virginia and the District of Columbia; such votes shall be distributed by first assigning one (1) vote each to the Maryland Department of Transportation, the Virginia Department of Transportation and the District of Columbia Department of Transportation. The remaining four votes each allocated to Maryland, Virginia and D.C. shall be apportioned as follows:
1. Three (3) votes shall be allocated to the participating local governments in each of the Maryland and Virginia portions of the Metropolitan Area as follows: each participating local government from Maryland and Virginia shall have one (1) share for each 50,000 population and the next major succeeding portion thereof, except that each jurisdiction having a population of less than 50,000 shall have one (1) share. Populations assigned to the participating local governments shall be the most recent population estimates approved by COG. The total weighed vote cast by the participating local governments in each of the Maryland and Virginia portions of the Metropolitan Area shall be tabulated by determining the percentage of the total shares of those present and voting cast in each of the Maryland and Virginia portions for and against the question and multiplying the resultant percentage by three. Those jurisdictions which have a population of over 400,000 shall have their weighted vote based on population divided equally between the legislative and executive branch representatives or designated alternates present and voting. If only one representative is present, that jurisdiction's representative will be given the full weighted vote to which that jurisdiction is otherwise entitled.
 2. Each member from the House and Senate of the Maryland and Virginia General Assemblies present and voting shall be allocated one-half (0.5) of a weighted vote.
 3. Each member from the District of Columbia present and voting, or his alternate in his absence, shall be allocated one (1) of the four (4) remaining D.C. votes.
- e. If the total weighted vote of those present and voting within any one of the Maryland, Virginia, or District of Columbia portions of the Metropolitan Area is less than five (5), the weighted vote for each of the representatives present and voting for that portion of the Metropolitan Area shall be increased proportionally to insure a total of five (5) votes. The final vote on the question shall then be determined by adding the total votes cast in each of the Maryland, Virginia and District of Columbia portions of the Metropolitan Area together to arrive at the votes for or against the question. The question shall carry if it receives a majority of the proportional votes cast in accordance with the above procedure.

VII. COMMITTEES

a. Steering Committee

There shall be a Steering Committee to facilitate work program planning and management of the transportation planning process. The Committee's responsibilities include:

1. Working with the staff in developing the annual transportation planning work program and budget for consideration by the TPB;
2. Reviewing monthly recommendations from the staff and Technical Committee on technical procedures, work program progress and the overall technical conduct of the planning process;
3. Working with the TPB Chairperson and the staff in developing recommendations for the TPB on revisions to the adopted regional transportation plan and transportation improvement program, and on major transportation planning policies;
4. Recommending for TPB approval criteria for grouping by function, geographic area, and work type those non-regionally significant projects that are not of appropriate scale for individual identification in the Transportation Improvement Program;
5. Providing a mechanism to assist the TPB Chairperson in preparing for meetings and working with other COG Policy Committees;
6. In months when the full TPB is not scheduled to meet, act on behalf of the TPB on proposed amendments to the Unified Planning Work Program (UPWP) or to the annual element of the Transportation Improvement Program (AE/TIP) and advise the TPB of such action. Notice of proposed amendments to the UPWP or the AE/TIP shall be given to the full TPB at least five days prior to action by the Steering Committee; if a voting member objects in writing to action by the Steering Committee, the proposed amendment shall be considered by the full TPB. The member objecting to the amendment shall have the option to have the Chairperson call a special meeting of the TPB to consider the amendment or agree to hold the amendment over to the next regular TPB meeting. Notwithstanding the above, the Committee shall have the full authority to approve non-regionally significant items, and in such cases it shall advise the TPB of its action.

The Steering Committee shall be composed of ten (10) members of the TPB as follows: the TPB Chairperson and immediate past Chairperson, one (1) local government representative of the District of Columbia, one (1) elected local government representative of Maryland, one (1) elected local government representative of Virginia, one (1) representative each of the State Transportation Agencies, one (1) representative of WMATA, and the Chair of the Technical Committee. The Steering Committee shall be chaired by the current TPB Chairperson and shall meet on a regular basis or as determined by the Chairperson.

b. Technical Committee

There shall be a Technical Committee to advise and assist the TPB in the technical actions of the planning process, to review the cost and content of the work program, to review methodology and procedures, and to review plans and programs. Members of the Committee shall be appointed by the TPB from persons nominated by the various jurisdictions, public agencies, and private organizations in the region having cognizance over transportation matters or an interest or special competence in the field of transportation. Members may also be appointed from persons of special competence nominated by TPB members. The Technical Committee shall make recommendations to the TPB concerning data collection procedures to ensure coordination of procedures and standards between

city, county, State and local planning agencies and this transportation process, and shall consider and make recommendations concerning any other matters referred to it by the TPB. The Technical Committee shall elect such officers as may be appropriate, and shall meet once each month or on an as needed basis as determined by the Technical Committee Chairperson.

c. Advisory Committees and Task Forces

The development, maintenance and updating of the Metropolitan Area's transportation plans and programs require an assessment of contemporary viewpoints on critical issues, needs, values and priorities. To assist the TPB in ascertaining such views, the TPB may establish special Advisory Committees and Task Forces for such purpose.

Such Advisory Committees and Task Forces shall be established by resolution of the TPB, and such resolution shall include a mission statement. The Chair of the TPB shall appoint the members of the Advisory Committees and Task Forces from a broad cross-section of elected and appointed officials, and civic, business, environmental and other relevant community interests in the region. Appointments shall be subject to the review and approval of the TPB.

VIII. STAFF

The Director of Transportation Planning of the Metropolitan Washington Council of Governments and his designees shall serve as staff to the TPB in the conduct of the transportation planning process.

IX. PUBLIC PARTICIPATION

In order to foster greater participation by citizen, transportation, environmental, and other advocacy groups in the transportation planning process, the TPB will set aside a period of time at each of its regularly scheduled meetings to hear input from representatives of recognized regional groups.

The TPB will maintain a list of recognized regional citizen, transportation, environmental, and other interested advocacy groups. Groups not on the established list may request that the TPB add them to the list. At the discretion of the TPB Chairperson, individuals may also be recognized and given the opportunity to speak within the allotted public comment period.

Representatives of such groups desiring to speak before the TPB are requested to notify the Director of Transportation Planning that they wish to appear before TPB at least two (2) days before the scheduled date of the meeting. Such representatives should speak on topics of current interest to the TPB. Presentations to the TPB shall normally be limited to three (3) minutes. At least 50 written copies of the presentations and any additional information that the groups wish to present to the TPB should be provided when their representatives appear before the TPB. In the event that a meeting is held pursuant to Section IV.c., the Director of Transportation Planning shall make reasonable efforts to allow for the TPB to receive public input in writing, by phone or email, and shall provide notice on the website or at the beginning of the meeting, if prior notice on the website is not possible, of the manner in which public input will be received.

Special meetings of the TPB may be scheduled to hear citizen and special interest group input on topics of special interest as decided by the TPB, and citizens will be invited to participate in Advisory Groups and Task Forces established under VIIIc.

X. AMENDMENTS OF BYLAWS

These Bylaws may be amended pursuant to the following procedures:

- a. With the approval of the majority of those voting members of the TPB present, physically or electronically, and voting, a proposal to amend the Bylaws introduced at any regular meeting of the TPB, shall be recorded in the minutes, and
- b. A special written notice setting forth such proposal shall be mailed to every member of the TPB at least ten (10) days before the next regular meeting.

The amendment shall be acted upon at the regular meeting next following the meeting at which it was proposed. A majority vote of the voting members of the TPB shall be required for adoption.