

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL  
FOR THE CITY OF FALLS CHURCH, VIRGINIA  
HELD IN THE COUNCIL CHAMBERS,  
300 PARK AVENUE AT 07:30 P.M.  
Monday, November 25, 2013

These are summary minutes. The full video of the City Council Meeting may be viewed on the City website at [www.fallschurchva.gov](http://www.fallschurchva.gov) under City Council Meetings.

**CALL TO ORDER**

Mayor Baroukh called the meeting to order at 7:35 p.m., followed by the Pledge of Allegiance to the Flag.

**ROLL CALL**

At roll call, the following members were present: Mr. Duncan, Mr. Kaylin, Mr. Peppe, Mr. Snyder, and Mayor Baroukh. Ms. Barry and Mr. Tarter were absent.

Also present were City Manager Wyatt Shields, City Attorney John Foster, and Deputy City Clerk Veronica Prince.

**VALIDATION OF NOTICE OF SPECIAL MEETING** -- None.

**ADOPTION OF MEETING AGENDA**

**MOTION:** Mr. Kaylin MOVED, seconded by Mr. Snyder, to adopt the agenda. Upon voice vote, the meeting agenda was adopted without objection.

**PROCLAMATIONS**

**Proclamation Declaring November 27, 2013 as Volunteer Appreciation Day (Deputy City Clerk Veronica Prince)**

 [06 \(a\) 11-27-13 Volunteer Proclamation](#)

Mayor Baroukh read the proclamation and presented it to the Deputy Clerk. He said volunteers were the cornerstone of the City and he was amazed at the community's talent and willingness to serve.

Mr. Snyder said there wouldn't be a City of Falls Church without volunteers and he asked the volunteers in attendance join the Council for a group photo.

**OATH OF OFFICE TO NEW BOARD AND COMMISSION MEMBERS** -- None.

**RECEIPT OF PUBLIC COMMENTS, REQUESTS, AND CONSENT ITEM COMMENTS. [The public may address Council for one 3-minute period. The Mayor may shorten the time allowed each speaker, depending on the length of the agenda and number of speakers. A chair or representative of a board, commission, or committee may make a 5-minute oral summary of the written report.]**

Jon Horowitz, Director of the Easter Seals Child Development Center, announced that the new center on Hunton Avenue had opened Monday and he thanked the Council and City employees for their support, which enabled them to open on time. He noted the energy efficiency and green initiatives that were incorporated into the new Center, including solar panels. Mr. Horowitz presented plaques to thank the City Council, City Manager, Development Services Director James Snyder, Senior Planner Loren Bruce, and the Center's builder at Monarch construction for going beyond the call of duty to enable the construction of the Center to move quickly; this was a fantastic example of public-private partnership and of the way a city can pull together to make an important project happen on an expedited timeline.

Linda Janulis, Vice President of Children's Services for the Easter Seals of Northern Virginia, thanked the Council on behalf of the Center's children and the families. She said the children would be in a safe and secure environment in a building that was state of the art for age appropriate activities and curriculum. She noted that the Center was able to provide early intervention and additional services for children with special needs.

Mayor Baroukh noted that there were citizens present who planned to speak about the issue of *Citizens United*. As a prudential matter, he would be recusing himself from that discussion due to a potential conflict with his employment with the Federal Government Department of Homeland Security. Though there was no direct conflict, because there was the possibility of conflict in the future, he felt it was best not to participate in discussing the topic.

Mr. Snyder made the following disclosure:

I hereby disclose that I might have a conflict of interest in this matter. I am employed by the Property Casualty Insurance Association of America. Given that my employer might be negatively affected by the constitutional amendment that reverses the decision of the supreme court of the united states in *Citizens United v. Federal Election Commission* and similar cases, I hereby recuse myself from this matter pursuant to VA Code section 2.2-3115 (f) and this is the statement provided to me on advice of counsel.

Mr. Peppe took over as Chair for the discussion.

Robert Crowe (201 E. Broad Street) said that he was one of the 45 City residents who had signed the petition requesting that the Council adopt a resolution in support of a constitutional amendment to reverse the Supreme Court's decision in *Citizens United* which allows corporations and unions to spend unlimited amounts of money for the purpose of electing or defeating candidates in elections. He said that when citizens participate in elections, they are seeking the best outcome for their children, families, communities, and nation. When a business corporation participated in an election, it sought the best outcome only for itself. Under *Citizens United*, a candidate must raise ever growing amounts to finance a campaign. This

translated to more time raising money and less time on the peoples' business. Mr. Crowe said there was significant support in the community for national campaign finance reform and the Falls Church residents who signed the petition were asking Council to send a message to the General Assembly and Congress that the problem of unlimited spending in our elections must be fixed.

Julia Ide (601 Jackson Street) said she was one of the 45 citizens petitioning the Council to support a constitutional amendment to overturn the *Citizens United* ruling. The Supreme Court ruled that corporations could be treated as people with respect to campaign financing and that money is a form of free speech. Ms. Ide said the ruling harmed the ability of the electorate to select candidates who will represent "We the People" and hid the names of corporations that could sway the candidates with large, unreported contributions. She asked Council to make a statement that they support the people over money interests and they support transparency regarding who is influencing representatives.

Jaymar Joseph (330 Virginia Avenue) introduced himself to Council as the newly appointed Executive Director of the Falls Church Housing Corporation. He thanked the City for their support of Housing Corporation programs and for providing much needed financing for residents and for the Winter Hill community. Mr. Joseph said that in 2014, the Housing Corporation intended to ramp up efforts to preserve and create new affordable housing for the City's workforce, seniors, and disabled persons. He provided the Council with the Housing Corporation's Annual Report and noted that they had applied for a CDBG grant to allow for the Winter Hill Community Room to be used as an emergency shelter during power outages and inclement weather situations.

Seth Heminway (600 Fulton Avenue) urged the Council to retain the existing 35% pervious surface standard in the City's stormwater ordinance. A lot of great strides had been made toward the addressing really serious problems. He knew the City was particularly concerned with addressing phosphorous, a pollutant within the stormwater, but he wanted to raise awareness about water volume. While walking his dog on rainy days, Mr. Heminway noticed a huge amount of water running off of streets, sidewalks, and lots with larger houses, driveways and patios. He was concerned about stream scour, which was caused by so much volume moving through the streams and was almost impossible to repair. Mr. Heminway said the City was spending quite a bit to restore Howard Herman Stream Valley Park and he would like to see more done on an individual lot basis to encourage as much retention as possible.

Keith Thurston (1015 Birch Street), speaking on behalf of the Village Preservation and Improvement Society (VPIS), said he wanted to reaffirm VPIS's assertion that the lot coverage limits needed to be retained to control water volume as well as water quality. Reduction in green space on individual lots meant a reduction in trees and other vegetation to help absorb excess stormwater. VPIS believed that on-site retention was equally as important as the infrastructure downstream. Mr. Thurston said that regarding discussion about relocating lot coverage regulations in the code, that might be possible depending on the level of enforcement in one part of the code versus another.

Brian Segal (602 Oak Haven drive) supported the resolution regarding *Citizens United* and urged Council to delay voting until December 9<sup>th</sup> when Ms. Barry and Mr. Tarter would be in attendance. He knew Ms. Barry supported the resolution and said it would be nice to have the full Council vote on the issue given the abstentions stated earlier. Regarding the measure itself, he said that the Constitution preamble stated “We the People” and it is the Constitution by and for the people; corporations are artificial entities created by the state and they should be regulated by the state. They should not be granted privileges unless the states who create them grant such privileges, which should be statutory in nature, not constitutional.

Mayor Baroukh resumed as Chair of the meeting.

### **Summary of Written Comments.**

Clerk summarized written comments as follows.

#### **Community Services Board**

The Fairfax-Falls Church Community Services Board submitted their *Fiscal and Program Oversight Report* for July-September 2014.

#### **Stormwater**

Jon S. Wolford, on behalf of the Northern Virginia Association of Realtors, provided the comments on the Stormwater Management ordinance.

Dennis Szymanski (915 Hillwood Ave.), member of the Tree Commission, expressed the Commission's desire for current landscaping and tree canopy requirements to be relocated from Chapter 48 to the new Stormwater Chapter 35. The Commission also suggested including new tree canopy fund regulations in the chapter.

#### **Harris Teeter Development**

The Winter Hill Community Association Board updated the Council on a site plan meeting Rushmark Properties held with homeowners. The homeowners were pleased with changes to a masonry wall and landscaping on the Winter Hill side of the project. The Association also requested that the developers add low lighting lining on a pedestrian pathway leading from the pocket park to the Winter Hill parking lot.

#### **Historic Home on Grove Avenue**

Keith Thurston ( ), on behalf of the Historic Falls Church, Inc. Board of Directors, submitted a petition requesting that the City cease all developer activity at 311 Grove Avenue and hear an appeal to stop the demolition of the home.

#### **Development at Broad and West Streets**

A Grove Avenue resident opposed any change to Grove Avenue that would limit or restrict traffic on that street. The resident urged using other traffic calming measures, such as larger speed bumps, to cut down on cut-through or speeding traffic.

Lisa Varouxis (301 Grove Ave.) opposed the proposed development at the corner of Broad and West Streets. She opposed the project due to the scale of the building, the loss of local businesses on the site, the addition of a traffic light on Broad Street, the possibility of a hotel being included in the plans, and the possible increase in cut-through traffic on Grove Avenue. Ms. Varouxis was in favor of a smaller mixed-use development that included efficiency and one-bedroom apartments over store and restaurant space.

### **Use of Water Sale Proceeds**

Connie Rydberg (105 Hillier St.), member of the City Retirement Board, urged the Council to use the proceeds from the sale of the City's Water Utility to fund the City's two pension plans. She said the return on investment could be used to fund other City priorities.

### **TR13-38 - Charter Change Regarding the November Election Date**

Carol DeLong (213 W. Columbia St.) urged Council to hold an organizational meeting on either the first Monday of the year or a date certain, such as January 2<sup>nd</sup> or 3<sup>rd</sup>, to elect a Mayor and Vice Mayor and adopt the Council's Rules of Procedure.

Mr. Kaylin said he had spoken with Ms. Rydberg, Chair of the City's Retirement Board and certified actuarial officer, the previous week and asked her about her view on the pension issue. She had reviewed the proposal in detail and said it was actuarially sound and, most importantly, the math worked.

### **Council Requests**

Mr. Duncan noted that as the holiday season approached, there would be a number of community gatherings and so he asked Council to provide the City Clerk with details for these events so they could be publicly noticed, if necessary.

### **REPORT OF CITY MANAGER TO COUNCIL**

Bond Ratings. Mr. Shields reported that bond rating agency Standard & Poor, which rated the City's debt at AA for many years, had upgraded the City's debt to AAA following the Council's recently passed bond resolution to fund the T.J. Elementary School expansion, the future preschool project, city hall improvements, fire station improvements, new fire apparatus, and park improvements, among other things. Fitch also rated the City at AAA and Moody's rating was Aa1, which was a notch below Aaa. All three agencies rated the City's outlook as "stable". Mr. Shields said that he wanted to share comments the rating agencies had provided regarding the ratings. They noted the Council's reserve policy and success meeting the policy as being a strong indicator of financial strength, as well as the City's strong financial policies; ability to maintain balanced budgets; good financial management; and track record of funding local pensions and other post-retirement benefits pursuant to what actuaries recommended. They also noted with approval, the voters' passage of the water sale and the agreement of the terms of that sale, as well as the creation of a stormwater utility with a dedicated fund for infrastructure improvements. Mr. Shields said the Council had taken on a lot of tough decisions in recent years with an eye towards longer term goals.

City Attorney. Mr. Shields announced that this would be Mr. Foster's last meeting with the Council as he prepared to begin his employment with the Fairfax County School Division. He said there had been a send-off the previous week to express thanks to him for his service to the City. Mr. Shields said, on behalf of staff, he wished Mr. Foster the best in the future.

Mr. Kaylin said it had been productive and enjoyable to work with Mr. Foster at length on the sale of the water system. The City Attorney had assembled a great team and had clearly engineered a successful strategy on the issue. Mr. Kaylin said that working for one of the largest

school districts in the United States was likely to be a character building opportunity and he wished Mr. Foster the best. Regarding the bond ratings, Mr. Kaylin said the rankings were good news and a vote of confidence. They were intended as recognition of the good work accomplished and as a request to continue that work into the future. He believed two components of the ratings were the willingness and ability of the citizens to support the tax rate necessary to maintain the services and the importance of the general fund.

Mr. Duncan said he was struck by the admiration, respect, and affection expressed by staff at the event for Mr. Foster, which reminded him that they were in a business that was fundamentally about people. He said that regarding the bond rating, a Loudoun County news report said they had sold \$45 million in bonds at 3.18% and he had asked Mr. LaCondre what the City was plotting for interest rates; Mr. LaCondre told him that 4.5% was what they were planning since the projects would not begin before FY2016. He asked that there be further explanation in the future about the timetable for the projects and what interest rates could be expected.

Mr. Snyder said the highest commendation you can make of any public official is you've left things better than you found them and Mr. Foster had accomplished that. He thanked Mr. Foster for his work in so many areas and said he had demonstrated the highest competence as a lawyer, as a problem solver, and as a counselor. Mr. Snyder said he believed that the bond ratings reflected the importance of the adequate fund balance, strong management, and willingness to make difficult decisions on the part of both management and Council. He said there is a note that one of the ratings people said essentially "congratulations on what you've done, but now don't blow it" and believed that meant the Council had done some very hard work and needed to keep it up in the future. Mr. Snyder felt this was not just positive for staff and Council, but for citizens willing to support tough decisions that produced a government with excellent schools and services that was recognized for its financial management.

Mayor Baroukh said he a lot of Council's interactions with the City Attorney were confidential by nature, so the public wasn't always aware of the work he did, but Mr. Foster was an outstanding individual, colleague, and attorney to work with during his term on Council. He thanked Mr. Foster for guiding the Council through the water negotiations. Regarding the bond ratings, Mayor Baroukh said the City had really begun to turn the corner toward a very optimistic time and there were exciting things happening, such as facility planning. The ratings validated the Council's prudent financial decisions. This was great news and it could not have been accomplished without citizen and School Board support. The Mayor said it was important to keep this moment going in the future and he agreed with Mr. Duncan's request for more information regarding interest rates and project timelines.

## **BUSINESS ON THE AGENDA**

### **Second readings of ordinances and other items requiring public hearings**

**[For Public Hearing Only: \(TO13-18\) ORDINANCE TO CREATE CHAPTER 35 "STORMWATER," ARTICLE I "STORMWATER MANAGEMENT" OF THE FALLS CHURCH CITY CODE TO CLARIFY AND REORGANIZE EXISTING STORMWATER MANAGEMENT REGULATION; TO ADD NEW LANGUAGE](#)**

**REQUIRED BY THE STATE OF VIRGINIA (Assistant City Manager Cindy Mester) Council action to be deferred to a later date.**

10 (a) (1) (TO13-08) Chapter 35 Stormwater

Civil Engineer Jason Widstrom summarized staff report presented to Council.

Mayor Baroukh asked the City Manager to summarize the discussion and questions Council had about this item at a recent work session. Mr. Shields said much of discussion had been on the question of the zoning measure (the 35% hard cap) and he had some concerns about moving that standard of impervious coverage out of the stormwater text and over into a zoning context. Many questions had not yet been resolved, and a specific one that had been raised was that currently the trigger for enforcement of the 35% impervious cap was when someone redeveloped the property and was disturbing at least 2,500 square feet of soil. If that was moved into the zoning context and had over 35% impervious coverage, that would be non-conformance and a review could be triggered for any minor building permit applied for, or even a complaint. That was a very different context and staff had not resolved exactly how to address those since the work session, which was why they were requesting additional time further direction from Council direction. Mayor Baroukh said that may be jumping one step ahead of part of the discussion. He believed Council had agreed on a process for analyzing the issue and the first step was that if they decided to adopt the regulations as applied to residential, should they also layer on top of that the hard cap of 35% or should that be maintained as a proxy in the code as the minimum? If the Council decided to adopt both, then the next series of questions is where does it go in the Code and what impact does it have, whether in Zoning or somewhere else? He felt it was important to keep the discussions to that framework because these were very complicated and detailed technical issues, and he didn't think it was helpful for the Council to dive in. Mayor Baroukh said Council should be focusing on key policy issues to help them go through this process and to also be able to explain this to citizens and get responses back. He said getting this right was very important; the City would be a leader on this front and other jurisdictions were looking to Falls Church as an example of how to implement their stormwater regulations. Understanding the impacts is very important and the Council needed to be sure that they were not creating unintended consequences by revisiting this, that they were not making properties undevelopable or making it so cost prohibitive that the goals of the changes couldn't be accomplished.

Mr. Duncan said the question he would most like answered was whether the standards were primarily aimed at water quality or quantity. There was a belief in the community that water quantity was as much of an issue as quality, and that removal of the 35% cap would create a bigger problem with water quantity. Mr. Duncan hoped there would be data showing a typical lot developed against the new standard to demonstrate the effect of the standards on quantity as well as quality.

Mr. Snyder asked that, in addition to refining some of the answers to these questions, the materials be presented in a way that the citizens can understand; they were virtually impenetrable and people need to know the impact on a single family home, as well as the environmental and

other economic trade-offs. He hoped there would be an education program for the community. The City Manager confirmed that there would be interaction with the community to provide information on the issue.

Mr. Kaylin asked when the credit committee's recommendations would be reviewed by Council. Mr. Widstrom said that was tentatively scheduled for the December 2<sup>nd</sup> work session. Mr. Kaylin agreed that the regulations were difficult to understand, even after attending five meetings totaling 10-12 hours of discussion. The problem was that the Virginia regulations themselves were impenetrable. It was difficult to understand what the state wanted. He agreed that getting the information in a more digestible form was a great request, but it would be a struggle to get it down to an intelligible level.

**MOTION:** Mr. Duncan MOVED, seconded by Mr. Snyder, to defer (TO13-18) to February 10, 2014.

The Mayor opened the matter to the public for discussion.

Robert Young (608 Timber Lane) said he wanted to highlight something that he hadn't heard discussed yet, which was the policies regarding things like permeable pavers, gravel, other materials that could be used to ameliorate the runoff in terms of both quantity and quality. These were all considered impermeable by the City, implying there was no reduction in stormwater. He hoped Council and staff would consider this as they debated the 35% hard cap. Mr. Young agreed that it was important to provide the information in a form that was easy for homeowners to understand.

There being no further public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

Mr. Kaylin asked if Mr. Widstrom could provide some feedback on the issue Mr. Young raised regarding credit for permeable services. Mr. Shields noted that this was an issue regarding the credit policy and that was separate from the stormwater utility ordinance they were discussing that evening. Mr. Widstrom explained the 35% cap and credits that Mr. Young mentioned were in reference to obtaining credit for using a surface to get towards the 35%. He was correct that, currently, a permeable paver was not considered permeable for the impervious surface calculation. Mr. Widstrom said the reason was that permeable pavers were used as a water quality feature and not to reduce water quantity; in a heavy rain event, water would run off of them just like concrete.

Mayor Baroukh asked for a quick graphical representation to demonstrate the relationship between the stormwater utility regulations and the credit policy.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion.

Mr. Duncan: AYE

Mr. Kaylin: AYE

Mr. Peppe: AYE



Mr. Snyder: AYE  
Mayor Baroukh: AYE

The Deputy Clerk announced that the motion PASSED 5-0. (Ms. Barry and Mr. Tarter were absent).

**(TO13-26) ORDINANCE TO AMEND CHAPTER 48 "ZONING," SECTION 48-235 "PRINCIPAL USES PERMITTED BY RIGHT," TO MAINTAIN PRINCIPAL USE STATUS OF WATER UTILITY INFRASTRUCTURE SUBJECT TO SALE (City Attorney John Foster)**

10 (a) (2) (TO13-26) Water Tower Zoning Text Amendment Ordinance

City Attorney John Foster summarized staff report presented to the Council.

Mayor Baroukh asked if the language had changed since the last time it was before Council. Mr. Foster confirmed there had been changes to the ordinance following discussion at work session, but there had not been any changes since first reading. Mayor Baroukh noted that he had requested at the work session that the language limit the uses and asked if this ordinance included that language, which Mr. Foster confirmed.

**MOTION:** Mr. Duncan MOVED, seconded by Mr. Kaylin, to approve (TO13-26).

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion.

Mr. Duncan: AYE  
Mr. Kaylin: AYE  
Mr. Peppe: AYE  
Mr. Snyder: AYE  
Mayor Baroukh: AYE

The City Clerk announced that the motion PASSED 5-0. (Ms. Barry and Mr. Tarter were absent). (Ord. 1911)

**Resolutions and first readings of ordinances**

**(TR13-36) RESOLUTION TO ADOPT FY2015 FUNDING RECOMMENDATIONS FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) FUNDS (Human Services Director Nancy Vincent)**

10 (b) (1) (TR13-36) Adopt FY2015 Funding Recommendations for CDBG and HOME Funds

Mayor Baroukh made the following disclosure regarding (TR13-36):

NADER BAROUKH DISCLOSURE

Resolution regarding Community development block grants as it related to Winter Hill Apartments (TR13-36).

While I understand that I am not required to make a disclosure, as a prudential matter, after extensive discussions with the City Attorney, pursuant to VA Code, §§ 2.2-3112 and -3115.H., I would like to disclose as a matter of prudence that regarding:

- 1) The grant for Winter Hill heating and cooling system - falls church Housing Corp. (for a generator).
- 2) That (a) I own property at 243 Gundry Dr. and among other things I was a member of the Board of the Winter Hill Community Association and other groups; and the my wife is President of the Association;
- 3) I am a member of groups (including but not limited to homeowners) which may be affected by the project;
- 4) Based on my review and discussion with the City attorney and given that the project will affect the City as a whole with regard to, among other things, fiscal matters, planning, development, and housing policies, I believe that I can participate in the transactions fairly, objectively, and in the public interest.

Housing Programs Specialist Dana Lewis summarized the staff report presented to Council.

Tori McKinney (206 Greenway Boulevard), member of Housing Commission, explained that the Commission held two public hearings to review the applications submitted for CDBG funds. She said that this year there were five applicants that requested the funding and after quite a bit of deliberation and discussion, the Commission was pleased to be able to award a percentage of funding to all five applicants. Ms. McKinney said it was important to recognize the value that these federal funds brought to the City.

Mayor Baroukh requested that his name not appear on any of the documents since some of the materials may be submitted to the federal government.

Mr. Duncan thanked the Housing Commission and staff for their hard work. He had attended a few of the Commission meetings and it was inspiring to see such effort expended on behalf of the members of the community that could use a helping hand.

**MOTION:** Mr. Duncan MOVED, seconded by Mr. Kaylin, to adopt (TR13-36).

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion.

Mr. Duncan: AYE

Mr. Kaylin: AYE

Mr. Peppe: AYE  
Mr. Snyder: AYE  
Mayor Baroukh: AYE

The City Clerk announced that the motion PASSED 5-0. (Ms. Barry and Mr. Tarter were absent). (Res. 2013-35)

Mayor Baroukh recused himself prior to the discussion and vote on (TR13-37), stating that he felt that due to the fact that some issues in the legislative packet may involve his employer, the federal government, it would be best to recuse himself from the discussion though there may not be a direct conflict of interest.

Vice Mayor Snyder then took over as Chair for the discussion.

**(TR13-37) RESOLUTION ADOPTING THE CITY OF FALLS CHURCH 2014 LEGISLATIVE PROGRAM (Assistant City Manager Cindy Mester)**

 [10 \(b\) \(2\) \(TR13-37\) Legislation Program Resolution staff report 11-25-13](#)

Mr. Snyder noted that lines 1456-1684 of the staff report concerned the *Citizens United* issue, which would be discussed as a separate agenda item (TR13-39) later in the meeting. Ms. Mester explained that the staff report referenced the issue and noted that it was a separate resolution.

Assistant City Manager Cindy Mester summarized the staff report presented to Council.

**MOTION:** Mr. Peppe MOVED, seconded by Mr. Duncan, to approve (TR13-37) as revised on lines 161-173 and deletions of lines 1456-1684.

The Vice Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion.

Mr. Duncan: AYE  
Mr. Kaylin: AYE  
Mr. Peppe: AYE  
Mr. Snyder: AYE

Mr. Snyder announced that the motion PASSED 4-0 (Mayor Baroukh recused himself; Ms. Barry and Mr. Tarter were absent). (Res. 2013-36)

Mayor Baroukh resumed as Chair of the meeting.

**(TR13-38) RESOLUTION REQUESTING THE GENERAL ASSEMBLY TO AMEND**

**SECTIONS OF THE CITY CHARTER TO CONFORM WITH CITY CHARTER SECTION 3.01 SETTING NOVEMBER ELECTION DATE FOR CITY COUNCIL AND THE SCHOOL BOARD (City Attorney John Foster)**

10 (b) (3) (TR13-39) Charter Amendment on November Elections

City Attorney John Foster summarized the staff report presented to Council. He noted feedback received regarding the proposed amendment to section 4.05 "Induction of Members." The current proposed language at line 109 provided that the first meeting of a newly elected Council "shall take place on the second Monday in January." A concern was raised that depending on the particular year, that would be as late as January 13<sup>th</sup> and a suggestion had been made that the Council may want to consider different language to move that first meeting earlier on the calendar. He asked if the Council had feedback on this issue.

Mayor Baroukh asked if the Mayor and Vice Mayor already in place prior to the organizational meeting would hold office until a new vote was held. Mr. Foster confirmed that would be the case, except in situations where the Mayor and/or Vice Mayor were no longer on Council. Mr. Foster also said there was concern that the first meeting could be so late in the month and there would not be a work session prior to that meeting or, if a work session were to be held, the previous Mayor and/or Vice Mayor would preside over that meeting.

Mr. Duncan proposed changing the meeting to the first Monday after the first Friday. Mr. Foster suggested that the language for that change at line 109 read: "on the first Monday after the first Friday in January." There was discussion regarding the earliest and latest date that the organizational meeting would be held according to the proposed language. Mr. Duncan noted that holding the meeting on that date would avoid conflicting with the holidays, when Council members might be on vacation. He was aware that many members did not want to have to return to Falls Church for an organizational meeting on January 1<sup>st</sup> or 2<sup>nd</sup>.

Mr. Peppe noted that a work session could be held without elected leadership and a discussion could be held publicly at the meeting regarding nominations for Mayor and Vice Mayor.

Mr. Duncan agreed and noted that officials in Maryland take office shortly after they are elected; he asked why elected officials take office was so much later in Virginia. He felt that it was a bit of a burden on those who did not seek reelection to have to continue serving through the end of the year and it was a burden for staff to provide information and Council packages to additional members during the transition. Mr. Foster said he didn't know what the Maryland statutes said, but the Virginia statute provides that following a November election, the oath of office has to be administered by January 1<sup>st</sup>; it can be administered before January 1<sup>st</sup>, but individuals elected in a November election took office officially as of January 1<sup>st</sup>.

Mayor Baroukh said his concern was that he wanted members taking extended trips during the holiday season to be able to plan ahead and avoid having to rush back prior to an early January meeting. He said there seemed to be two ways of dealing with the issue -- hold a work session with the continuing Mayor or Vice Mayor or, if they are not continuing on Council, designate

who will lead the meeting ahead of time. Mayor Baroukh said he preferred to make sure that the organizational meeting was as inclusive as possible.

Mr. Duncan asked who would sign emergency declarations, etc. during the time between January 1<sup>st</sup> and the organizational meeting. Mr. Foster said that type of thing would likely be signed by the continuing Mayor, unless they were no longer on Council, but he would have to research the issue further to be sure. Mr. Duncan said his mother-in-law, previous Council Member Carol Delong, was insistent that the organizational be held on January 1<sup>st</sup>, and he was trying to find middle ground and find a date that would accommodate most ordinary schedules without going too far into January.

Mr. Snyder said he wanted the record to reflect that he agreed with Phil Duncan's mother-in-law on this point. He was willing to compromise, but felt that it was best to have the new Council and leadership, as well as appointments, in place as soon as possible after January 1<sup>st</sup>.

**MOTION:** Mr. Duncan MOVED, seconded by Mr. Snyder, to adopt (TR13-38), amended at line 109 to say "on the first Monday after the first Friday in January."

The Mayor opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

Mayor Baroukh asked that the incoming Council members be informed of the change before it gets filed to make sure they didn't have any issues with the decision. Mr. Shields noted that if the incoming Council members had an issue with the timing, they would not have much recourse because the change needed to be submitted as soon as possible.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion.

Mr. Duncan: AYE  
Mr. Kaylin: AYE  
Mr. Peppe: AYE  
Mr. Snyder: AYE  
Mayor Baroukh: AYE

The City Clerk announced that the motion PASSED 5-0. (Ms. Barry and Mr. Tarter were absent). (Res. 2013-37)

Mayor Baroukh recused himself from the discussion of (TR13-39) for the reasons previously stated, namely the possibility of a future conflict of interest due to his employment with the federal government.

Mr. Snyder also recused himself from the discussion of (TR13-39) for the reasons previously stated, namely a potential conflict of interest with his employment with the Property Casualty Insurance Association of America.

Mr. Peppe then took over as Chair for the discussion.

**(TR13-39) RESOLUTION DECLARING THE POSITION OF THE FALLS CHURCH CITY COUNCIL THAT CORPORATIONS SHOULD NOT RECEIVE THE SAME LEGAL RIGHTS AS NATURAL PERSONS, THAT MONEY IS NOT SPEECH, AND THAT POLITICAL EXPENDITURES CAN BE REGULATED (City Clerk Kathleen Buschow)**

 [10 \(b\) \(4\) \(TR13-39\) Res. Re Campaign Contributions](#)

Mr. Peppe asked for a motion on the item.

**MOTION:** Mr. Kaylin MOVED, seconded by Mr. Duncan, to defer (TR13-39) to December 9<sup>th</sup>.

Mr. Peppe opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion.

Mr. Duncan: AYE

Mr. Kaylin: AYE

Mr. Peppe: AYE

The Deputy Clerk announced that the motion PASSED 3-0. (Mayor Baroukh and Mr. Snyder recused themselves; Ms. Barry and Mr. Tarter were absent)

Mayor Baroukh resumed as Chair of the meeting.

**(TO13-30) ORDINANCE TO ALIGN THE REAL ESTATE TAX YEAR WITH THE FISCAL YEAR (City Manager Wyatt Shields)**

 [10 \(b\) \(5\) \(TO13-30\) Draft ordinance for Aligning Tax Year 11 21 13](#)

City Manager Wyatt Shields summarized the staff report presented to Council.

Mr. Snyder asked if the City Manager and CFO recommended making the change. Mr. LaCondre said there is no real benefit other than the improving the accuracy of real estate tax revenue projections. However, it narrowed the margin for error in other revenues, which should be taken into consideration. Mr. Shields added that it was difficult to forecast assessed value as far ahead as must be done under the current timeline, which could lead to mid-year budget corrections. During years where assessments were overly conservative and revenues came in

ahead of what was forecast, there was a surplus. Mr. Shields said surpluses were important because those funds could be applied to pay-as-you-go capital improvements in the City, though that can be difficult to explain to the public. Mr. Snyder asked if this change would allow taxpayers to hold onto their money for longer, which Mr. Shields confirmed. He said it deferred the implementation of the assessed value, which was effective January 1<sup>st</sup>, but would not be applied until July 1<sup>st</sup>. Conversely, if assessed values dropped, a higher assessed value would apply to your property for six months longer. Mr. Snyder and Mr. Shields discussed the effect the change could have on the budget during the first year of implementation. Mr. Shields explained that during the first year, the expected increase in assessed value wouldn't be applied until six months later than planned.

Mr. Kaylin said that many members of the public believed that a surplus meant that the City mismanaged the analysis rather than understanding that a surplus was the result of conservative forecasting and the revenue was still needed for capital improvements. It was still difficult to pinpoint the projections, but you would be able to know with some certainty that the largest budget driver had been addressed. Regarding mid-year budget correction, Mr. Kaylin agreed that those should be avoided. When they had been necessary in the past, the effect on the staff was very negative. Following the 17 FTE reduction, some employees got notice in April that they would need a new job by June, or they found that after their position was reduced, they had to quit and find a full time job. He said most organizations couldn't take that type of damage, still have high morale, and expect those who are left behind to function as well. Mr. Kaylin said that was a bad way to run a government.

Mr. Duncan asked if the date taxes were due would change. Mr. Shields confirm that those dates would not change

Mayor Baroukh asked when the change would go into effect. Mr. Shields said if approved, it would become effective January 2015, so the upcoming budget process would be affected. Mayor Baroukh said the goal of this legislation was to improve the City's fiscal health and build the credibility of the forecast. He said that the issue was not that the numbers weren't accurate, but that the issue of surpluses could be confusing. This action was consistent with the direction Council had been going regarding multiyear budgeting. He understood that this would result in more pressure on the other revenue streams because there could be more variance on those, which would be manageable as long as some reasonable cushions were built into the budget. Mayor Baroukh said the use of true surpluses to fund pay-go needed to be for one-time situations and the CIP should be budgeted and planned for rather than relying on surplus funds.

Mr. Peppe said he was supportive of the change because while there was nothing inherently wrong with the current system, it introduced an element of confusion. This change would force a greater degree of discipline all around and encourage planning for the CIP Mr. Peppe hoped that it would eliminate what some see as a sneaky way to raise taxes every year.

**MOTION:** Mr. Duncan MOVED, seconded by Mr. Kaylin, to approve (TO13-30) on first reading, schedule second reading and public hearing for December 9, 2013 and advertise the same according to law.

Mayor Baroukh opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion.

Mr. Duncan: AYE  
Mr. Kaylin: AYE  
Mr. Peppe: AYE  
Mr. Snyder: AYE  
Mayor Baroukh: AYE

The Deputy Clerk announced that the motion PASSED 5-0. (Ms. Barry and Mr. Tarter were absent.)

Mayor Baroukh thanked the Council for considering the change. He said he had proposed the change some time ago and he hoped that the adjustment would improve accuracy for budget development. The next step would be to educate everyone involved on how the budget process would work since there would be some differences if the change was approved on second reading.

Mr. Snyder said he supported the change because he hoped that it would improve accuracy and allow tax payers to hold on to their own money longer. If there were negative unintended consequences, then it should be revisited.

**(TR13-40) RESOLUTION FOR IRREVOCABLE ELECTION NOT TO PARTICIPATE IN VIRGINIA LOCAL DISABILITY PROGRAM (Human Resources Director Richard Parker)**

 10 (b) (6) (TR13-40) VLDP Opt-Out Resolution

City Manager Wyatt Shields summarized the staff report presented to Council.

**MOTION:** Mr. Duncan MOVED, seconded by Mr. Kaylin, to adopt (TR13-40).

Mayor Baroukh opened the matter to the public for discussion. There being no public comment and nothing in writing, the item was closed to public hearing and opened to the Council for discussion.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion.

Mr. Duncan: AYE  
Mr. Kaylin: AYE  
Mr. Peppe: AYE



Mr. Snyder: AYE  
Mayor Baroukh: AYE

The Deputy Clerk announced that the motion PASSED 5-0. (Ms. Barry and Mr. Tarter were absent.) (Res. 2013-38)

### Consent items

### Appointments

**New Appointment: Charles Anderson: Architectural Advisory Board - (6/1/12) - 5/31/15 (Unexpired Term)**

**Reappointment: Barry Buschow: Economic Development Authority - 12/1/13 - 11/30/17**

**Reappointment: Lindy Hockenberry: Planning Commission - 1/1/14 - 12/31/14**

Mr. Duncan said he enjoyed speaking with the candidates being recommended for appointment, as well as those who applied and were not chose. All of the candidates were well-qualified.

**MOTION:** Mr. Peppe MOVED, seconded by Mr. Snyder, the adoption of the consent agenda.

**ROLL CALL VOTE:** There being no further discussion, the Mayor asked the Clerk to call the roll on the motion.

Mr. Duncan: AYE  
Mr. Kaylin: AYE  
Mr. Peppe: AYE  
Mr. Snyder: AYE  
Mayor Baroukh: AYE

The Deputy Clerk announced that the motion PASSED 5-0. (Ms. Barry and Mr. Tarter were absent.)

**Items removed from consent** -- None.

**Other business** -- None.

**BUSINESS NOT ON THE AGENDA** -- None.

### COUNCIL MEMBER COMMENTS

Mr. Duncan noted that this was Mr. Peppe's final regular council meeting. He thanked Mr. Peppe for his many years of dedicated service to the City and said it was a privilege to serve with him.

Mr. Snyder thanked Mr. Peppe for his service and recognized his accomplishments on both the City Council and the School Board. Mr. Snyder noted that the Council had been provided with a letter, which was part of the legislative program, that he planned to send to the Secretary of Transportation if there were no objections.

Mr. Kaylin asked when there would be a discussion on the use of water sale proceeds. Mr. Shields proposed adding that topic to the agenda for the December 2<sup>nd</sup> work session. Mr. Kaylin said he thought it was important to begin to plan for the proceeds because once the sale was completed the funds should not just be sitting around undesignated. Mr. Kaylin and Mr. Snyder discussed some of the proposals for the funds and the benefits of the different options. Mr. Kaylin supported pre-funding the pension and discussed Ms. Rydberg's analysis of that option.

Mr. Snyder noted that there were many questions that needed to be answered before a decision could be made, but the funds needed to be put in reserve somewhere until then; they should not be used for operational cost.

Mayor Baroukh agreed that the topic should be discussed on December 2<sup>nd</sup> and said he looked forward to reviewing the analysis provided by Davenport. He requested a report on the pros and cons of the feasible options for the use of the funds.

Mr. Shields said it was important for the Council to identify the goals they hoped to accomplish with the one-time revenue in order to protect the long term financial sustainability of the City.

Mr. Peppe noted that it was important to set goals, but he didn't think the current Council could decide on how to use the funds because that would bind future Councils to their decision. He said the Council needed to consider what the public might want the funds to be used for -- they may have different ideas than what the Council was considering.

Mayor Baroukh thanked Mr. Peppe for his service to the City. He said it had been a pleasure to work together, especially on the water issues. Mayor Baroukh reported on the City Council/School Board Liaison Group meeting held prior to the Council meeting. He said they had discussed the budget calendar and the School's plans for their CIP; they hoped to assemble a working group to lay out a process for those projects and discuss plans for the property that was being added to the City following the boundary adjustment.

Mr. Duncan thanked the staff for putting together the program the previous week in honor of the renaming of the Community Center for Ken Burnett.

Mayor Baroukh made the following disclosures:

#### NADER BAROUKH DISCLOSURES

Post office lot, city center area, EDA property, Atlantic project, and Hitt/ Rushmark project, 201 W. Broad St. 300 block of W. Broad St, and 301 W. Broad St.

While I understand that I am not required to make a disclosure, as a prudential matter, after extensive discussions with the City Attorney, pursuant to VA Code, §§ 2.2-3112 and -3115.H., I would like to disclose as a matter of prudence regarding the:

- 1) Post office lot, city center area, EDA property, Atlantic project, and Hitt/ Rushmark project, 201 W. Broad St., 300 block of W. Broad St, and 301 W. Broad St.
- 2) That (a) I own property at 243 Gundry Dr. and among other things I was a member of the Board of the Winter Hill Community Association and other groups and was a member of the major design team; and the my wife is President of the Association and (b) the Association previously provided comments on the Atlantic project and I also provided comments; The Association also recently provide comments regarding the Hitt/Rushmark project;
- 3) I am a member of groups (including but not limited to homeowners) which may be affected by the project;
- 4) Based on my review and discussion with the City attorney and given that the project will affect the City as a whole with regard to, among other things, fiscal matters, planning, development, and housing policies, I believe that I can participate in the transactions fairly, objectively, and in the public interest.

Child Development Center

I would like to disclose that my daughter is enrolled at the Child Development Center (Easter Seals) and that I am a member of a group of three or more people (those parents with children at Easter Seals or with children on the waiting list) who will be effected by Easter Seals' project. Therefore, I can consider this matter fairly, objectively, and in the public interest.

## **APPROVAL OF MINUTES OF PREVIOUS MEETINGS**

### **ADJOURNMENT**

Upon proper motion and second, by unanimous voice vote the motion passed and the meeting adjourned at 10:17 p.m.

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Mayor

ATTEST:

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Deputy City Clerk

Attached:

These are summary minutes. The City Council Meeting may be viewed on the City website.

The City of Falls Church is committed to the letter and spirit of the American Disabilities Act. This document will be made available in alternate format upon request. Call 703 248-5014(TTY

711)

ORDINANCE 1911

ORDINANCE TO AMEND CHAPTER 48 "ZONING," SECTION 48-235  
"PRINCIPAL USES PERMITTED BY RIGHT," TO MAINTAIN PRINCIPAL USE  
STATUS OF WATER UTILITY INFRASTRUCTURE SUBJECT TO SALE

THE CITY OF FALLS CHURCH, VIRGINIA, HEREBY ORDAINS that Chapter 48  
"Zoning," Section 48-235 "Principal uses permitted by right," be amended and reenacted as  
follows:

Chapter 48  
ZONING

**Sec. 48-235. Principal uses permitted by right.**

Principal uses permitted by right in the R-1A, low density residential district are as follows:

- (1) One-family dwellings.
- (2) Churches, parish houses, parochial schools and similar religious facilities.
- (3) Public parks, playgrounds, community centers, libraries, museums and schools and similar public facilities.
- (4) Water and sewage pumping stations and water supply reservoirs owned by the City or a public water authority.
- (5) Gardens.
- (6) Group homes for mentally ill, mentally retarded, developmentally disabled or handicapped persons. Mentally ill, mentally retarded, developmentally disabled or handicapped shall not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia, § 54.1-3401, or as defined in section 102 of the Controlled Substance Act (21 USC 802). The term "handicapped" is defined hereby incorporating by reference the definition in the Federal Fair Housing Amendments Act of 1988 (24 CFR 14, et al.) and in regulations duly adopted under Fair Housing Amendment Act. Group homes for which the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority, pursuant to the Code of Virginia shall be deemed to be a group home permitted by right.

1st Reading: 10-28-13  
2nd Reading: 11-25-13  
Adoption: 11-25-13  
(TO13-26)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of  
Falls Church, Virginia on November 25, 2013 as Ordinance 1911.



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Kathleen Clarcken Buschow  
City Clerk

RESOLUTION 2013-36

RESOLUTION ADOPTING THE CITY OF FALLS CHURCH 2014  
LEGISLATIVE PROGRAM

WHEREAS, the City of Falls Church is a political subdivision of the Commonwealth of Virginia, and, as such, has an interest in prospective legislation that will come before the Virginia General Assembly during its 2014 Session; and

WHEREAS, the City Council Legislative Committee has presented to the City Council a list of legislative initiatives, which the Committee recommends that Council endorse as its legislative program; and

WHEREAS, the City Council has considered the Legislative Committee's recommendations and wishes to approve them as the *City of Falls Church 2014 Legislative Program*.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Falls Church, Virginia:

- 1) that it hereby approves the *City of Falls Church 2014 Legislative Program* and endorses, by reference, the positions contained in the Virginia Municipal League, Northern Virginia Regional Commission, Northern Virginia Transportation Commission, Northern Virginia Transportation Authority, Mary Riley Styles Public Library Board of Trustees, Electoral Board, and Environmental Services Council Legislative Programs; and
- 2) that the Virginia General Assembly is urged to favorably consider and take action on the legislative initiatives provided in *City of Falls Church 2014 Legislative Program*; and
- 3) that the Mayor, Members of City Council, the City Manager, the Assistant City Manager, the City Attorney, City Boards and Commission Members, and other City officials are authorized and encouraged to represent the City of Falls Church's position, as defined in the *City of Falls Church 2014 Legislative Program*, with respect to prospective legislative and policy matters being contemplated by the Virginia General Assembly during its 2014 Session; and
- 4) that copies of the approved *City of Falls Church 2014 Legislative Program* be forwarded to Senator Dick Saslaw and Delegate Marcus Simon.

Reading: 11-25-13  
Adoption: 11-25-13  
(TR13-37)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on November 25, 2013 as Resolution 2013-36.



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Kathleen Clarcken Buschow  
City Clerk

## **2014 City of Falls Church Legislative Program Position**

### **Priority**

#### **Charter Amendment**

Based on the election date referendum vote, the City Council approved a resolution asking that the Virginia General Assembly amend City Charter Section 3.01 in its 2012 session. The General Assembly did so, and Governor Robert McDonnell signed the charter amendment into law effective July 1, 2012. City Charter Sections 3.04, 4.05, and 20.02, all contain language relating to May elections or July organizational meetings following May elections. Although Sections 3.04, 4.05, and 20.02 were repealed by implication when City Charter Section 3.01 was amended to provide for November elections, they remain in the Charter and should be amended to avoid confusion in the future.

*Position:* Staff recommends requesting charter amendment pursuant by separate action under TR13-38.

#### **Public Safety – Dangerous Weapons in City Facilities**

*Background:* Local governments are singled out for special treatment under Virginia law with respect to the ability to prohibit dangerous weapons from being carried into their buildings and facilities. Virginia law generally prohibits firearms and other dangerous weapons to be carried in places of worship, courthouses, and schools. This general prohibition does not extend to public facilities such as City owned libraries, recreational centers, or meeting halls. Virginia law allows private property owners to prohibit a person from bringing dangerous weapons onto their property. Yet local governments are prohibited from acting in similar fashion to restrict the possession of firearms in their buildings. The City supports changes to state law to allow local governments to create a weapons-free environment in publicly owned or leased facilities as well as reducing the traffic of illegal weapons. This position has regional support and is consistent with legislation Fairfax County pursued in previous years. The Virginia Municipal League has an adopted 2013 Policy Statement consistent with this position which includes supporting legislation to allow local governments to prohibit or restrict the carrying of weapons in government buildings where a local governing body meets. The Mary Riley Styles Public Library Board of Trustees concur that this is a priority and critical issue.

*Position:* In order to strengthen the public's confidence in their security and safety in public facilities, the City of Falls Church supports state legislation to allow the City to adopt an ordinance prohibiting the possession of firearms and other dangerous weapons in any City owned or publicly leased property or facility, including recreational facilities and libraries, City administrative offices, and the meeting rooms where Council and other boards and commissions formally meet to conduct the City's business.

#### **Transportation Funding**

*Background:* 2013 General Assembly session resulted in an unprecedented adoption of the Governor's transportation plan (HB2313) which resulted in significant new statewide funding for all modes of transportation and specifically for northern Virginia to generate specific revenues to address the region's most pressing needs. Additionally, SB1140 was adopted that specified how operating and capital transit funds were to be allocated, established an ongoing stakeholder input

mechanism and codified the NVTC subsidy allocation model (SAM) which contains a Cities of Falls Church and Fairfax hold clause. While there still remains significant funding needs and implementation issues to work out it is recommended that no changes to these additional state code authorities be pursued in 2014.

*Position:* Council supports no legislative changes to the code sections, resulting from HB2313 and SB1140, in the 2014 General Assembly session.

### **Pedestrian Safety and Cross Walks**

*Background:* Events throughout the region continue to bring concern for the safety of pedestrians attempting to cross streets; education alone is insufficient to mitigate vehicular accidents that involve pedestrians. Many Northern Virginia jurisdictions are exploring a variety of means to effectively provide for pedestrian safety while avoiding both the potential for serious vehicular accidents and the potential for creating a false sense of security for the pedestrians. For example, Loudoun County’s legislative program’s position stated to “Seek and/or support legislation that would further refine state statutes in order to eliminate confusion regarding the rules of the road and at crosswalks for bicyclists.”

*Position:* Support revisions to Virginia’s existing pedestrian legislation to clarify the responsibilities of drivers and pedestrians in order to reduce the number of pedestrian injuries and fatalities that occur each year. In particular, support legislation that would require motorists to stop for pedestrians in crosswalks at unsignalized intersections on roads where the speed is 35 mph or less. Additionally, seek and/or support legislation that would further refine state statutes in order to eliminate confusion regarding the rules of the road and at crosswalks for bicyclists.

### **Unfunded Mandates**

*Background:* The Governor’s Task Force for Local government Mandate Review continues into its second year assessing areas for processes, reporting and programs that can be reduced, revised or eliminated to minimize impact on localities from unfunded mandates. The Virginia Governor has commissioned a taskforce on mandates, which is now in its second year, and its analysis as well as recommendations are available at: <http://www.dhcd.virginia.gov/index.php/commission-on-local-government/mandates-on-local-governments/force-for-local-government-mandates-review.html> .

A comprehensive listing of the unfunded or insufficiently funded mandated services is challenging to verify due to complexity of funding, regional nature of some service delivery and varying mandate threshold levels however staff the following information that speaks to the magnitude of the situation:

#### **Annual Local Funding Support (FY12 data)**

- Prisoner costs: \$ 240,000 (post sentencing)
- Elections: \$ 233,000
- Constitutional Offices: \$ 1,500,000
- Secondary Roads: \$ 845,000 (road maintenance/snow removal)

#### **Annual Reductions/Liabilities**



- Court fees and fines: \$ 30,000
- Local Aid to State: \$ 60,000
- Transportation: \$ 300M (regional road/transit, not City only)
- VRS: \$ 38M (school liability, total)

*Position:* Oppose any new state mandates that are not fully funded by the Commonwealth, and oppose the shifting of fiscal responsibility from the state to localities for existing programs; additionally support overall net reduction of mandates versus adopting the Task force's recommendations while authorizing other legislation that creates new unfunded burdens. Furthermore, the City supports the State's full cost coverage for prisoner responsibility post judicial sentencing.

## **FOIA**

*Background:* City Council and many of the City's Boards and Commissions are concerned with the Freedom of Information Act's (FOIA) outdated status in terms of using technology to facilitate the business of local government as well as access and transparency for its citizens. Therefore the City believes two FOIA areas of concern need to be reviewed, options considered and amended. The first is area is to assess options for elected officials, as well as appointed members of City bodies, to electronically participate in business meetings if a quorum of members is physically present in one location and simultaneous hearing can be achieved. The second item is to pursue ways to better utilize electronic technology to facilitate the City's business via social media, emails and other technological advances while not precluding transparency and citizen engagement. The Electronic Meetings and the Criminal Investigative Records Subcommittees of the FOIA Council have been meeting over the summer to consider possible draft legislation amendments.

*Position:* City Council requests that the General Assembly modernize FOIA's alternative uses of technology to better facilitate local government business of elected and appointed officials and to authorize legislative enhancements during the 2013 General Assembly session.

## **City Arts and Cultural Funding**

*Background:* The City has long supported, by policy and funding, the arts and cultural district, the Tinner Hill Historic Park-Tinner Hill Heritage Foundation and ArtsSpace Falls Church-Creative Cauldron. The synergy and opportunity to for these community resources to become full economic and realities is now occurring but the financial constraints remain a challenge. Pursuit of a modest amount of state funding to further the City, County and community's economic, tourism, historic preservation and educational opportunity as been recommended. This is consistent with the Council's 2009 action to adopt a humanities council and state code for art districts that permits financial incentives. These funds can also serve as a catalyst to leverage additional resources.

*Position:* Support the General Assembly initiated phase II funding request for \$25,000 to provide: 1) Tinner Hill Historic site to initiate phase one of park interpretative signage, design and amenities- \$10,000; 2) Creative Cauldron for theatre lighting, equipment, staging resources and signage- \$10,000; and 3) S. Washington Street Arts District way-finding signage and connectivity features- \$5,000. Staff recommends continuing this position.

## **Regional**

### **NVRC**

*Background:* See attachment 5 for comprehensive regional positions in the Northern Virginia Regional Commission's (NVRC) draft legislative program.

*Position:* Council fully endorses, by reference in Council's 2014 Legislative Program, the NVRC legislative program.

### **NVTA**

*Background:* See attachment 6 for comprehensive regional positions in the Northern Virginia Transportation Authority's (NVTA) draft legislative program.

*Position:* Council fully endorses, by reference in Council's 2014 Legislative Program, the NVTA legislative program.

### **NVTC**

*Background:* See attachment 7 for comprehensive regional positions in the Northern Virginia Transportation Commission's (NVTC) draft legislative program.

*Position:* Council fully endorses, by reference in Council's 2014 Legislative Program, the NVTC legislative program.

## **Support**

### **Electoral Board**

*Background:* See attachment 1 for full funding and election process improvements for the Electoral Board recommendations.

*Position:* Council fully endorses, by reference in Council's 2014 Legislative Program, the Electoral Board's legislative program.

### **Environment: Community Net Metering and Regulating Disposable Bags**

*Background:* See Attachment 3 for the Environmental Services Council's (ESC) legislative recommendations. Arlington County, Fairfax City and Alexandria City have similar legislative support positions for community net metering.

*Position:* Council fully endorses, by reference in Council's 2014 Legislative Program, the ESC's legislative program.

### **Library State Funding and Dangerous Weapons**

*Background:* See Attachment 4 for Mary Riley Styles Public Library (MRSPL) Board of Trustees legislative recommendations.

*Position:* Council fully endorses, by reference in Council's 2014 Legislative Program, the MRSPL's legislative program.

## **2014 Electoral Board Legislative Goals**

The Falls Church Electoral Board and General Registrar have adopted the following legislative goals for the 2014 Legislative Session:

### **1) Full Reimbursement to Localities for the Cost of Political Party Primary Elections.**

In many localities, the cost of the June 2013 primary exceeded \$25 per vote, or greater than 10 times the cost of the preceding Presidential Election, paid for by the taxpayers of each locality. VEBA supports full funding.

### **2) Full Reimbursement to Localities for the Cost of General Registrar and Electoral Board Compensation and Expenses.**

To require full reimbursement to localities for cost of compensation and expenses for General Registrar and Electoral Board members.

Reimbursement to localities is reduced in the current Budget by 24.55%; and reimbursement of mileage of electoral board members that is required by Code, was deleted in Budget Item 80-3, p 44: (“Notwithstanding § 24.2-108 Code of Virginia, counties and cities shall not be reimbursed for mileage paid to members of electoral boards.”)

VEBA supports full funding.

### **3) Voluntary Pilot Program of Vote Centers.**

In smaller elections vote centers could be used instead of having to open all polling places. For example, June primary turnout in Falls Church is generally under 1000 voters. This number could be easily accommodated in the Community Center, thereby saving the expense and labor of opening our two other polling places.

Both VEBA and VRAV support this pilot program.

### **4) General Registrar Compensation Increase.**

VRAV supports the recalculation of the population categories for compensation of General Registrars to conform to those used for other constitutional officers as a first step in determining equitable compensation.

### **5) Closing of Schools on Election Day.**

Some localities close schools on Election Day; making this uniform across the state will alleviate the problems of voters and school children sharing the same space. We believe that the General Assembly should consider closing schools, at least for Presidential and Gubernatorial elections.

### **6) Move June Primary to 3<sup>rd</sup> Tuesday of June so More Schools will be closed.**

Holding elections in school on a school day has always been problematic. The June primary is scheduled for the second Tuesday; moving it one week later will alleviate this problem in many areas

### **7) Compensation for SBE Chair & Vice Chair.**

To establish compensation for Chair and Vice Chair of SBE at same rate as compensation of Electoral Board members of largest jurisdictions.

VEBA's proposal would set the salary for Chair and Vice Chair of the SBE at that same rate for the largest jurisdiction, which would be \$4,886 per year. At present the Chair and Vice Chair of the SBE serve without compensation, an "honor" which belittles the actual work entailed and diminishes the value contributed to the Commonwealth.

This proposal is in line with VEBA's overall goal that the services of the entire elections community should be recognized and appropriately compensated.

**8) Vote by Mail.**

We support a pilot program of vote by mail, which has increased voter turnout while reducing the cost of conducting elections in Oregon and Washington.

**9) No-excuse Absentee Voting.**

In an effort to increase voter turnout, we support absentee voting without an excuse.

**FALLS CHURCH ELECTORAL BOARD FUNDING RESOLVES**

The following resolves were adopted unanimously by the Falls Church Electoral Board at its regular meeting on September 26, 2013:

*1. Full Reimbursement to localities for the cost of political party primaries.*

WHEREAS, the Code of Virginia (§ 24.2-509-A) permits political parties to choose their candidates by either convention or primary, and requires localities to pay for the cost of primaries (§ 24.2-518)

and,

WHEREAS, the Primary Election held in Falls Church on June 11, 2013 resulted in a total of 690 votes being cast, at a cost of \$15,670, for a cost of \$22.71 per vote,

and

WHEREAS, this cost was borne by the taxpayers of Falls Church without compensation from the political parties or the state treasury,

NOW THEREFOR, the Falls Church Electoral Board resolves that this is an unfunded mandate, and respectfully asks that the Falls Church City Council request our Delegates and Senators in the General Assembly to seek legislation requiring full compensation for the cost of political party primary elections conducted by localities at the direction of The Commonwealth.

**§ 24.2-509-A:** The duly constituted authorities of the state political party shall have the right to determine the method by which a party nomination for a member of the United States Senate or for any statewide office shall be made. The duly constituted authorities of the political party for the district, county, city, or town in which any other office is to be filled shall have the right to determine the method by which a party nomination for that office shall be made.

**§ 24.2-518:** "The treasurer of the county or city in which the elections are held shall pay the costs of primary elections.

A political party may hold an election to select the members of its party committee at the same time and in the same places as a primary election without fee or charge for making use of the electoral machinery, ...

*2. Full reimbursement to localities for the compensation and expenses of the General Registrar and Electoral Board*

WHEREAS, the Code of Virginia, § 24.2-108 and § 24.2-111 requires the General Assembly to set forth a compensation and expense plan for electoral boards and general registrars, and requires localities to pay those expenses with annual reimbursement, and

WHEREAS, the Appropriations Act adopted by the General Assembly effective July 1, 2012 includes the language (Item 88-2.):

*Notwithstanding § 24.2-108, Code of Virginia, counties and cities shall not be reimbursed for mileage paid to members of electoral boards.*

and,

WHEREAS, the Appropriations Act has repeatedly reduced the funds available to localities for Financial Assistance for General Registrar Compensation (78001) and for Local Electoral Board Compensation and Expenses (78002), resulting in only 62% reimbursement for Fiscal Year 2014

NOW THEREFOR, the Falls Church Electoral Board resolves that this is an unfunded mandate, and respectfully asks that the Falls Church City Council request our Delegates and Senators in the General Assembly to seek legislation requiring full compensation to localities for the cost of elections conducted by localities at the direction of The Commonwealth.

**§ 24.2-108.** Compensation and expenses of members. The General Assembly shall establish a compensation and expense plan in the general appropriation act for the secretaries and members of the electoral boards. The governing body for the county or city of each electoral board shall pay compensation, expenses, and mileage in accordance with the plan and be reimbursed annually as authorized by the act. The reasonable costs of electoral board members attending annual training programs provided by the State Board shall be included in the expense plan for electoral boards.

**§ 24.2-111.** Compensation and expenses of general registrars. The General Assembly shall establish a compensation plan in the general appropriation act for the general registrars. The governing body for the county or city of each general registrar shall pay compensation in accordance with the plan and be reimbursed annually as authorized in the act. The governing body shall be required to provide benefits to the general and assistant registrars and staff as provided to other employees of the locality, and shall be authorized to supplement the salary of the general registrar to the extent provided in the act.

Each locality shall pay the reasonable expenses of the general registrar, including reimbursement for mileage at the rate payable to members of the General Assembly. In case of a dispute, the State Board shall approve or disapprove the reimbursement. Reasonable expenses include, but are not limited to, costs for: (i) an adequately trained

registrar's staff, including training in the use of computers and other technology to the extent provided to other local employees with similar job responsibilities, and reasonable costs for the general registrar or at least one member of the registrar's staff to attend the annual training offered by the State Board; (ii) adequate training for officers of election; (iii) conducting elections as required by this title; and (iv) voter education.

ENVIRONMENTAL SERVICES COUNCIL  
CITY OF FALLS CHURCH

July 31, 2013

Hon. David Snyder  
Hon. Phil Duncan  
Legislative Agenda Committee  
City Council, City of Falls Church

Re: Legislative Agenda for the 2014 General Assembly

Dear Councilmen Snyder and Duncan,

The Environmental Services Council (ESC) recommends inclusion of two environmentally-focused legislative initiatives with the Council's state General Assembly legislative program. One promotes installation of more renewable energy systems in the City of Falls Church, and the second would give the City the ability to regulate disposable bags issued by retail establishments. Neither proposal would require funding from the City's budget. We ask that you consider including these requests for environmental legislation within the Priority Positions section of your legislative program.

COMMUNITY NET METERING

The largest source of climate-affecting greenhouse gas emissions is the exhaust gas resulting from burning fossil fuels to produce electricity. Transitioning to non-polluting renewable energy, such as that produced from solar photovoltaic systems should be an important goal of governments at all levels. Since the federal government has not been able to adopt comprehensive energy legislation to address renewable energy, it has been left to the states and local jurisdictions to fill in gaps. Many of our neighboring states have adopted policies designed to increase the installation of renewable energy systems. Virginia lags behind most of our neighboring states.

Last year the ESC recommended, and Council included in its 2012 Legislative Program, passage of legislation that would allow customers to enter into third party Power Purchase Agreements (PPA) for the purpose of financing renewable energy systems. We were pleased that the General Assembly passed PPA legislation earlier this year enabling PPAs as part of a pilot program, aimed especially at non-profit organizations.

This year we are recommending passage of legislation that would further expand access to the benefits of renewable energy systems to those customers traditionally unable to construct their own renewable energy systems, via a concept called Community Net Metering (CNM), also sometimes referred to as solar gardens. The Department of Energy's National Renewable Energy Laboratory has estimated that three quarters of our population is not able to install solar photovoltaic (PV) systems due to various limitations, including living in multifamily units (renters, condo unit owners, etc.), having roofs that are too small, not facing south, or as is frequently the case in Falls Church, shaded by trees or other impediments. Individual PV systems are also too expensive for most individuals and families with lower incomes.

CNM offers a solution to these problems by enabling a PV system to be installed on one building with the benefits of the system able to be shared with others, located at different premises, via billing systems. Through net metering, a capability that already exists in Virginia, the owner of a PV system (the host) can get credit from the local electric utility for electricity produced by their PV system that is fed back into the grid. The credit can be used by the owner of the PV system to offset purchases of electricity made from the utility. Under current rules, however, that credit is only available to the owner of the PV system and the usage of their own electric meter. With CNM, the credits can be allocated to others, typically individuals unable to install their own system, but having interest in investing in the host's PV system.

A limited form of this legislation, introduced by Delegate Minchew, passed in the 2013 General Assembly (HB 1695). It applies to agricultural situations where a farmer has multiple buildings, each with a separate meter. Previously, a farmer wanting to install a PV system could only use net metering credits against the meter of the building on which the PV system was installed. Any excess credits produced by the PV system could not be used to offset usage in other buildings, even those on the same farm. The legislation that passed allows farmers to use the credits to offset usage from meters on any other buildings on the same farm.

The General Assembly should now pass CNM legislation allowing for the sharing of net metering credits in more typically urban settings such as the City of Falls Church. For example, a church could install a PV system and share credits with its congregants, or an HOA could install a PV system on units with good solar exposure, and share credits with units affected by shade from trees. Nine states and the District of Columbia have passed various forms of CNM so that examples of this legislation already exist.

#### ABILITY OF LOCALITIES TO REGULATE CONSUMER DISPOSABLE BAGS

Northern Virginia's neighbors in Washington, D.C. and Maryland have implemented fees on consumer disposable bags issued by retail establishments. Both jurisdictions have reported success with this legislation, as the fees encourage consumers to bring reusable bags when shopping. Disposable bags can hinder recycling efforts by causing breakdowns in recycling equipment. They degrade slowly and often wind up in waterways where they cause considerable environmental problems (including impeding storm water drain facilities). On average, Americans use over 500 disposable bags per year per person. While these bags may appear free to consumers, they cost retail establishments approximately \$37 per year.

We request legislation giving local jurisdictions, like the City of Falls Church, the ability to implement regulations on disposable bags, including the ability to assess a fee. We have met with state Senator Adam Ebbin who is prepared to introduce this type of legislation in the 2014 General Assembly. Senator Ebbin recognizes that this legislation is best implemented on a regional basis, in fairness to retail establishments, and hence he is planning to address this concern in his legislation.

Sincerely,

Tim Stevens  
Environmental Services Council, Chair

Cc Cindy Mester, Assistant City Manager



Johannah Barry, Council Liaison to the Environmental Services Council  
Members of the Environmental Services Council  
Allison Lohrenz, Staff Liaison to the Environmental Services Council

## Legislative Agenda 2014 of the Mary Riley Styles Public Library Board of Trustees

### Priorities for Funding

#### **1. Support the Increase of Funding in State Aid by Another \$450,000 for FY2014.**

Since the late 1930s, the Commonwealth of Virginia has acknowledged its role in the support of public libraries through the provision of funds designated primarily to purchase materials for library collections.

#### ***Background:***

The State Aid funding formula rewards local effort in the provision of public library service. Statewide, library systems use State Aid for 78% the books and library materials purchased, and for many library systems it is the only funding source for materials. **In Falls Church, State Aid monies are used for 100% of the books, magazines, DVDs, CDs, and audio-books, as well as a number of the electronic databases that are purchased for the public.**

To show the recent history in State Aid funding for the library:

- In FY2009, the library was to receive \$171,461, but the State cut the grant to \$164,306.
- In FY2010, the library was eligible for \$169,535, but it was reduced mid-year to \$159,838.
- In FY2011, the library received \$140,789, or a reduction of 12% from the previous year.
- In FY2012, the library received \$138,522, or another reduction of 1.6%.
- In FY2013, the library received an increase of \$265 due, in part, to the increase in the official population of the City. The State Aid total for FY2013 was \$139,787.
- The State Aid projection for FY2014 for Mary Riley Styles Public Library is an increase of \$3,443 for a total of \$142,230 if the Legislature approves the proposed State Aid budget.

**The Library Board of Trustees supports the proposed increase of the overall State Aid budget by \$450,000 (from \$14,581,764 to \$15,031,764) for public libraries in Virginia that results in an increase for the Mary Riley Styles Public Library of \$3,443 from the previous year's State Aid allocation, or \$142,230.**

#### **2. Strengthen State funding for public libraries through the “New Age, New Library: A Plan to Meet the Needs of 21<sup>st</sup> Century Library Users” in Virginia.**

#### ***Background:***

The Virginia Library Association proposes that the Commonwealth sustain and extend the “New Age, New Library” initiative started in FY2014 to provide Virginia public library users with contemporary digital library materials including eBooks, eAudiobooks, streaming media, and electronic databases. The Virginia Library Association is recommending an increase of \$1.5 million in FY2015 and another \$1.0 million in FY2016. Surveys and data on library use show that the greatest need in Virginia’s public libraries is to keep up with public demand for digital information resources. Data from online systems and in-person use counts show that Virginians turn to their public libraries more than ever for educational reading, vocational advancement, assistance in job searching, and personal enrichment. This funding will help Virginia’s public libraries provide the digital library materials needed by 21<sup>st</sup> Century library users in Virginia.

**The Library Board of Trustees supports the New Age, New Library initiative to provide public library users with contemporary digital library materials—an additional \$1.5 million in FY2015 and another \$1 million in FY2016.**

### **3. Guns in Libraries and Community Centers**

**The Board of Trustees of the Mary Riley Styles Public Library continues to support the ban of weapons/guns in public libraries and community centers because there is simply no reason to have weapons in these institutions.** The Library Board of Trustees urges the City to continue in its efforts to lobby for legislation that reflects that.

### **4. Legislative and Budget Support for the Library of Virginia**

In recent years, the Library of Virginia has received substantial budget cuts that have made it very difficult to maintain its levels of service to both the public in its capacity as a library and also as a support institution to the public libraries of Virginia.

**The Board of Trustees supports the Library of Virginia’s legislative and budgetary priorities and proposes that the General Assembly continue the work begun in Fiscal Year 2013 to strengthen the financial foundation for Virginia’s only public research library.**

### **Strategies**

**Because of the continued reduction in State Aid to public libraries in Virginia, it is necessary to make the legislators aware of the Board’s concerns. Therefore, the following strategies are suggested.**

- Library Board members and City/County governing bodies should attend the State budget hearings that are held throughout the state and advocate that funding be restored to State Aid as soon as economically feasible.
- Library Board members and Library Director should meet one-on-one with their legislators to make them aware of the needs of their local libraries and their stances on

the issues noted above. These meetings should take place **before** January, 2013—preferably before the end of November.

- The Library Board of Trustees encourages patrons to write their legislators stressing the needs of the Mary Riley Styles Public Library and promoting the stands listed above before January 2013.

**NORTHERN VIRGINIA REGIONAL COMMISSION**  
**2014 Legislative Program**  
**Draft** presented to the Commission on October 24, 2013

*The following priorities and positions are adopted by the NVRC member Commissioners, individually and collectively, on behalf of the over two million residents of Northern Virginia that they represent.*

**PART I – NORTHERN VIRGINIA’S REGIONAL PRIORITIES**

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**PLANNING DISTRICT COMMISSIONS**

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**NVRC and the Northern Virginia jurisdictions support legislative and administrative initiatives, intended for improving the means and methods of providing state and local government services, that use and further enhance the existing regional structure established in the Regional Cooperation Act in which the Planning District Commission purpose, structure, duties, and responsibilities are established. (Restates previous position.)**

**Furthermore, state General Funds must be appropriated to support the work of Planning District Commissions at a rate of at least 35 cents per capita to realistically reflect the costs associated with the partnership between local and state governments undertaken by planning district commissions. (Restates previous position.)**

Chapter 42 of Title 15.2 in the Code is the Regional Cooperation Act.

§ 15.2-4201. Purpose of chapter. This chapter is enacted:

1. To improve public health, safety, convenience and welfare, and to provide for the social, economic and physical development of communities and metropolitan areas of the Commonwealth on a sound and orderly basis, within a governmental framework and economic environment which will foster constructive growth and efficient administration.
2. To provide a means of coherent articulation of community needs, problems, and potential for service.
3. To foster planning for such development by encouraging the creation of effective regional planning agencies and providing the financial and professional assistance of the Commonwealth.
4. To provide a forum for state and local government on issues of a regional nature.
5. To encourage regional cooperation and coordination with the goals of improved services to citizens and increased cost-effectiveness of governmental activities.

6. To deter the fragmentation of governmental units and services.

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### STATE FUNDING OF LOCALLY ADMINISTERED PROGRAMS

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**NVRC and the Northern Virginia jurisdictions call upon the General Assembly and the Governor to rebalance state resources and responsibilities, so that the state share of funding to support the service partnership with localities for locally administered statewide public services is fully met. (Restates previous position.)**

The depth and breadth of state cuts to localities in recent years have strained the state-local funding partnership, and little evidence can be found to show state effort to reverse this trend. Since FY 2008, state aid to localities has shrunk by some \$1 billion. Direct state aide to localities has shrunk from 52% of the General Fund in FY 2009 to only 44% in FY 2014.

Recent state budgets and changes in administrative policies have reduced funding for a number of programs administered by localities on behalf of local governments and the state. Rather than providing a modern, broad-based, tax and revenue structure for the state's General Fund, the state continues to rely more heavily on fees, accounting and administrative maneuvers, debt, and other non-GF revenues to support the state's obligations. Further strains on local government performance result when state agency allocations are insufficient to provide the staff necessary to fully meet the responsibilities of those agencies.

In addition, there have been attempts, on an annual basis, by individual General Assembly members to reduce local revenues from taxes such as Business/Professional/Occupational License (BPOL) and Machinery & Tools, without a corresponding reduction in local responsibilities.

**Therefore, NVRC and the Northern Virginia localities oppose any additional unfunded mandates and request the following of the 2013 General Assembly:**

- **Fully fund the state portion of programs in which funding responsibility is shared by the state and localities, including K-12 education, the Cost of Competing Adjustments for Northern Virginia school systems, and the Comprehensive Services Act (CSA).**
- **Take no actions that would reduce local revenues, including reduction or elimination of BPOL or Machinery & Tools taxing authorities.**
- **Provide for appropriate staffing at state agencies that are charged with supporting local government functions, such as the Department of Environmental Quality charged with significant stormwater program and solid waste management permitting responsibilities. (Restates and revises previous position.)**

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### TRANSPORTATION POLICY AND FUNDING

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The passage of HB 2313 (2013) was the result of bipartisan cooperation throughout the Commonwealth, as the Governor, General Assembly, localities and the business community worked vigilantly to enact a transportation funding package that provides substantial new resources in addressing statewide transportation needs that had long been underfunded. Of particular interest to Northern Virginia was the inclusion of a regional package generating \$300 million annually in increase revenues dedicated to transportation projects. This funding is a significant step towards addressing the transportation needs of Northern Virginia, estimated in the TransAction 2040 Long Range Transportation Plan at approximately \$950 million per year in additional funding.

It is critical that Northern Virginia continues to receive its fair share of statewide revenues, as required by HB 2313, and that any potential changes to the HB 2313 statewide revenues remain at least equal to the law as enacted. Furthermore, it is important that no changes are made to the portions of HB 2313 that are specific to Northern Virginia or the Code sections related to the authorities provided the Northern Virginia Transportation Authority (NVTA).

Additionally, ongoing coordination between the Commonwealth and NVTA, other regional agencies, and local governments is essential as work proceeds to implement the regional provisions of HB 2313. This coordination is especially critical as VDOT commences the evaluation required by HB 599/SB 531 (2012) which will directly impact NVTA and its future actions.

Due to legislative changes in 2012, the Commonwealth Transportation Board now has the authority to allocate up to \$500 million to priority projects throughout the state before funds are provided to the construction fund. Due to this provision, the secondary and urban construction programs will receive no new funds until 2017, despite the additional transportation revenues and the fact that construction funds have not been available since FY 2010. Furthermore, this change gives the CTB significant authority in allocating statewide resources, resulting in funds being allocated to a few large projects rather than provided equitably to localities throughout the state through normal funding formula. It is imperative that this region receives its share of the statewide funds. It is recommended that this set aside be eliminated or modified to ensure a distribution of funds to each region that more equitably reflects the requirements and needs of each region.

A modern, efficient, multimodal transportation system is essential to the Commonwealth, and is intrinsically tied to continued economic development and the ability to compete in a global economy. We must work together to maintain and build the multimodal infrastructure that Virginia needs to remain an active and dynamic participant in a 21<sup>st</sup> century economy.

**Specifically, NVRC and the Northern Virginia jurisdictions support:**

- **The Commonwealth working with the federal government to ensure that it also provides sufficient resources to meet Virginia's transportation needs, including capital funding to WMATA to meet safety requirements of the NTSB, repairing aging rail track, investing in new rail cars, fixing broken escalators and elevators,**

rehabilitating decaying rail stations and platforms, modernizing the bus fleet and improving bus facilities.

- Including VRE track access funding within the Commonwealth's transportation budget to avoid reductions in service, increases in jurisdiction subsidies, or unreasonably high fare increases.
- Revisions to Virginia's existing pedestrian legislation to clarify the responsibilities of drivers, pedestrians, and bicyclists in order to reduce the number of pedestrian injuries and fatalities that occur each year.
- Exploring a wide range of multi-modal transportation methodologies, e.g., water taxis, that may uniquely serve to effectively move people or products within and through the Northern Virginia region.

Furthermore NVRC and the Northern Virginia jurisdictions oppose:

- Any legislation that would require the transfer of secondary road construction and maintenance responsibilities to counties, sometimes called devolution, especially if these efforts are not accompanied with corresponding long term revenue enhancements. While there are insufficient resources to adequately meet the maintenance and improvement needs of secondary roads within the state, the solution to this problem is not to simply transfer these responsibilities to local government that have neither the resources nor the expertise to fulfill them.
- Any legislation or regulatory moratorium on the transfer of newly constructed secondary roads to VDOT for the purpose of ongoing maintenance.
- Changes to maintenance allocation formulas detrimental to localities maintaining their own roads (e.g., Arlington County). Urban Construction Funds are already far below what is needed and localities in this region find other ways to fund new construction initiatives.

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#### LONG-TERM STATE FUNDING FOR K-12 EDUCATION

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The state must fully meet its Constitutional responsibilities to fund K-12 education. Critical gaps exist between state SOQ funding and the actual costs of providing a high quality education faced by localities. The Northern Virginia localities more than meet their responsibilities for K-12 education through their large contributions to the state General Fund, strong local effort, and the effect of high local composite indices, which divert state funding away from this region. State funding for K-12 has declined significantly in recent years from over 35% of the state General Fund in FY 2009 to less than 30% in FY 2014. Reductions in Cost of Competing Adjustment (COCA) funding has further exacerbated the stresses on the state-local K-12 partnership, one element in the permanent structural cuts in state funding that localities expressly sought to avoid.

NVRC and the Northern Virginia jurisdictions support full funding for the biennial re-benchmark of the Standards of Quality (SOQ), and strongly oppose formula changes which further weaken the partnership between the state and localities, including but not limited to, any reduction in the current state share of SOQ costs, capping state funding for support costs, and the elimination or reduction of Cost of Competing Adjustment funds to Northern Virginia localities. (Restates and



revises previous position.)

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### COMPREHENSIVE SERVICES ACT

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Since established in 1992, Virginia's Comprehensive Services Act (CSA) has led the nation by consolidating funding sources and carefully coordinating treatment services for children with severe and significant needs. This care coordination has proven successful in both meeting needs for individual children, and in proving that state and local responsibility and cost sharing can and does work well.

The CSA implementation should be regularly reviewed to assure quality services that produce improved outcomes for each child. However, the General Assembly should require that any changes in CSA law, policy or implementation guidelines designed to save state funds must also save local governments funds and cannot result in reduced access to CSA-funded services required by the children that qualify for this care. Furthermore, the General Assembly and the state Executive Council must direct the state Office of Comprehensive Services staff to work closely with local governments in a manner that further enhances the collaborative partnership established in the CSA and improves the outcomes observed in this special population of children.

The region opposes any other change to the CSA program that would shift costs from the state to local governments, and supports the current structure under the CSA law that invests in the local Family Planning and Assessment Team (FAPT) and Community Policy and Management Team (CPMT) the responsibility to ensure that the proper services are selected for each child and provided by properly licensed providers at fair and reasonable costs.

**NVRC supports state CSA policies that prevent the shift of costs of services for at-risk children fully to local government CPMT-approved services.**

**NVRC supports legislation to require that the State Executive Council, charged with setting policies to implement the Comprehensive Services Act, use the Administrative Process Act when promulgating, amending or repealing CSA policies. (Restates and revises previous position.)**

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### COMMUNITY SERVICES BOARDS

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**NVRC and the Northern Virginia jurisdictions support funding for persons leaving the Northern Virginia Training Center to live within the community, and for an additional 175 Medicaid ID waiver slots above the required waiver slots contained within the DOJ Settlement Agreement for eligible Northern Virginians living in the community.**

**NVRC and the Northern Virginia jurisdictions support expanding housing options for persons with serious mental illness that would provide for both housing and services (such as psychiatry, medication, case management, mental health supports and counseling) using the Discharge Assistance Program model.**

**Furthermore, NVRC and the Northern Virginia jurisdictions support General Funding for:**

- **The expansion of services for youth, including Systems of Care planning and implementation, Multisystemic Therapy, and intensive in-home services; and**

- The Peer Model Recovery program for adults with Substance Abuse issues. (New position.)

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## PART II – POSITION STATEMENTS

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### ENERGY POLICIES

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NVRC supports legislation and administrative actions that reduce the Commonwealth's reliance on source of energy that reduce our security, pollute our environment, and result in greater energy use than is needed to meet our economy's needs. Legislation and policies often do not reflect the full, long-term value of energy efficiency and clean energy sources to reduce waste, lessen future energy cost increases for energy and energy-related infrastructure.

The General Assembly, Administration, and State Corporation Commission should implement policies to be an "all of the above" strategy that fully recognizes the value of energy efficiency and clean energy resources.

Specifically, NVRC supports legislation in 2014 that would expressly authorize net metering by qualifying local governments and other political subdivisions, with a sufficiently high project cap (4-5 MW) to facilitate cost-effective, local waste, biomass, wind and solar projects. NVRC additionally supports broader allowances of community net metering and revisions to the state's Renewable Portfolio Standard that would encourage development of renewable projects in Virginia in place of purchases of renewable energy credits from out-of-state sources. (Restates and revises previous position.)

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### DILLON RULE

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NVRC supports relaxation of the Dillon Rule to provide counties, cities and towns greater autonomy in areas including land use, local revenue measures and other issues of local concern. Examples include but are not limited to, the authority to set local BPOL taxes, to provide tax relief to certain citizens, or to determine local parking regulation. The General Assembly should extend powers and authorities currently granted to some local governments by existing statute, to all other local governments. (Restates previous position.)

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### WATER AND NATURAL CONSERVATION

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NVRC supports legislation that will improve the state's stewardship of preserving Virginia's natural resources.

NVRC supports the development and implementation of a comprehensive water resource management policy that fosters proactive planning, sustainability, regional cooperation, public education and involvement, and ecological integrity. (Restates previous position.)

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### INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

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NVRC supports funding Virginia's membership in the ICPRB in order for the Commonwealth to have a full voice in and receive the full benefits from the Commission's management and protection of the water resources in the Potomac River.

Since 1940, the Commission has been instrumental in protecting and conserving the water of the Potomac and its tributaries, a significant source of drinking water for the region. However, in 2012 the Commonwealth removed the \$151,000 annual dues contribution to ICPRB from the state's budget. The Commission's activities address the basin's major challenges, including water quality impairments, water supply, flooding, groundwater use, and nonpoint source pollution, such as the identification of pathogens and emerging contaminants. Virginia's active participation is critical to the overall effectiveness of the Commission in meeting its mission, and therefore, to the benefits that the Northern Virginia region receives from the Commission's work. (Restates previous position.)

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## HEALTH AND HUMAN SERVICES

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NVRC supports policies that maintain the state's responsibility in partnership with local government to provide community capacity to:

- Protect vulnerable persons of every age;
- Ensure that children thrive and that youth successfully transition to adulthood;
- Promote the health of people and communities through prevention and early intervention;
- Strengthen the capacity of people and communities to achieve self-sufficiency; and
- Build and sustain a high-performing and diverse workforce.

To further support community-based programs, both public and private, NVRC supports Medicaid payment rates for services that are fair and enhance the availability of service choices. Staff-intensive services, such as personal care or home-based care, are strained when reimbursement rates are too low to support the costs of such care. (Restates and revises previous position.)

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## HEALTH CARE REFORM AND MEDICAID ELIGIBILITY

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NVRC and the Northern Virginia jurisdictions support legislation and administrative actions that prepare Virginia for the implementation of the federal Affordable Care Act (ACA), including innovations and reforms to Virginia's Medicaid program, to increase access to treatment and prevention services, especially for Virginians currently uninsured.

In considering the Medicaid policy revisions and any policies related to the implementation of ACA in Virginia, the General Assembly and Administration should:

- Include local governments in a timely manner when designing implementation plans and structures;
- Work with local governments to provide appropriate flexibility and the resources necessary to effectively respond to the provisions of new programs that would be implemented by local government staff, such as Medicaid and FAMIS eligibility determination;
- Avoid actions that would shift costs to localities, especially those actions that weaken the social safety net by restricting access or reducing funds for locally-administered services;
- Seek to implement innovative methods of achieving cost containment without restricting

- access to services; and
- Implement the use of technologies, such as predictive modeling, to find and reduce Medicaid fraud and abuse. (Restates and revises previous position.)

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### RECYCLING SERVICES

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NVRC supports legislation that improves the opportunities for recycling solid waste materials through the development of recycling markets throughout the state.

NVRC opposes any legislation that will reduce the authority or inhibit the ability of local governments to manage solid waste in accordance with mandated local solid waste management plans, and to implement mandated recycling programs and reporting requirements. (Restates previous position.)

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### LOCAL GOVERNMENT PLANNING AUTHORITIES

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NVRC and the Northern Virginia jurisdictions support existing local authority to regulate land use through zoning and subdivision controls, and oppose legislative efforts to weaken or transfer that authority away from local governing bodies.

Furthermore, while the coordination of local and state transportation planning is important, NVRC is concerned that provisions enacted during the 2012 Session could be interpreted as transferring the responsibility for land use planning from local governments to the Commonwealth. While the current Code allows that VDOT / CTB could withhold funding for transportation projects within a locality, NVRC strongly urges that VDOT / CTB work first with the locality to resolve the area of disagreement in transportation planning before withholding any funding. (Restates and revises previous position.)

**Northern Virginia Transportation Authority  
2014 Legislative Program  
DRAFT: October 17, 2013**

**STATE**

***TRANSPORTATION FUNDING***

The passage of HB 2313 was the result of bipartisan cooperation throughout the Commonwealth, as the Governor, General Assembly, localities and the business community worked vigilantly to enact a transportation funding package that provides substantial new resources in addressing statewide transportation needs that had long been underfunded. Of particular interest to Northern Virginia was the inclusion of a regional package generating \$300 million annually in increased Northern Virginia revenues. This funding is a significant step towards addressing the transportation needs of Northern Virginia, estimated in the TransAction 2040 Long-Range Transportation Plan at approximately \$950 million per year in additional funding. It is critical, that Northern Virginia continues to receive its fair share of statewide revenues, as required by HB 2313, and that any potential changes to the HB 2313 statewide revenues generate funds at least equal to the law as enacted.

NVTA has initiated a bond validation proceeding related to the regional funds to test the validity of the bonds, processes, and authorizing statutes. It is imperative that no changes be made to the Northern Virginia portions of HB 2313 or to the code sections specifically related to NVTA during this process.

Additionally, ongoing coordination between Commonwealth and NVTA, other regional agencies, and local governments is essential as we all work to implement HB 2313's regional provisions. This is especially critical as VDOT commences work on the evaluation required by HB 599/SB 531 (2012), which will directly impact NVTA and its future actions.

Due to legislative changes in 2012, the Commonwealth Transportation Board now has the authority to allocate up to \$500 million to priority projects before funds are provided to the construction fund. Due to this provision, the secondary and urban construction programs will receive no new funds until 2017, despite the additional transportation revenues. This is especially alarming as localities have not received funds for this program since FY 2010. Further, this change gives the CTB significant authority in allocating statewide resources, resulting in funds being allocated to a few large projects, rather than funds being provided equitably to localities throughout the state through the normal funding formula. It is imperative that the region receives its share of the statewide funds. It is recommended that this set aside be eliminated or modified to, at the very least, ensure equitable distribution of funds to each region.

A modern, efficient, multimodal transportation system is essential to the Commonwealth, and is intrinsically tied to continued economic development and the ability to compete in a global economy. We must all work together to maintain and build the multimodal infrastructure that Virginia needs to remain an active and dynamic participant in a 21<sup>st</sup> Century economy. *(Revises previous transportation funding position.)*

### **WMATA FUNDING**

The Commonwealth must work with the Federal Government to ensure that it, too, provides sufficient resources to address transportation needs. The Commonwealth is a valuable partner in ensuring that WMATA continues to move ahead with important safety and infrastructure capital improvements in its system. As part of the federal Passenger Rail Investment and Improvement Act (PRIIA) of 2008, WMATA received a 10-year, \$1.5B federal authorization to address urgent capital needs. The region matches these federal funds with \$50M each annually from DC, MD, and VA. The capital funding is used to support areas such as: meeting safety requirements of the NTSB, repairing aging rail track, investing in new rail cars, fixing broken escalators and elevators, rehabilitating decaying rail stations and platforms, modernizing the bus fleet, and improving bus facilities. *(Revises and reaffirms previous position).*

### **VRE TRACK ACCESS FEES**

Since its inception, VRE has received money from the Commonwealth through the Equity Bonus Program for the track access fees. MAP-21 eliminated the Equity Bonus Program while keeping the level of program funding the same through the first two years of the law. If VRE is unable to resolve this potential funding shortfall then there will be significant budgetary ramifications which could include reductions in service, 58% jurisdiction increase in subsidies, and/or a 28% fare increase. NVTA supports the inclusion of VRE track access funding within the Commonwealth's transportation budget. If this does not occur then NVTA supports a separate appropriation through eligible federal pass through money for track access fees within its capital program. *(Revises and Reaffirms Previous Position)*

### **SECONDARY ROAD DEVOLUTION/LOCAL MAINTENANCE PROGRAMS**

NVTA opposes any legislation that would require the transfer of secondary road construction and maintenance responsibilities to counties, especially if these efforts are not accompanied with corresponding revenue enhancements. While there are insufficient resources to adequately meet the maintenance and improvement needs of secondary roads within the Commonwealth, the solution to this problem is not to simply transfer these responsibilities to local government that have neither the resources nor the expertise to fulfill them. Further, NVTA also opposes any legislative or regulatory moratorium on the transfer of newly constructed secondary roads to VDOT for the purposes of ongoing maintenance.

Additionally, NVTA is opposed to changes to maintenance allocation formulas

detrimental to localities maintaining their own roads. Urban Construction Funds are already far below what is needed and localities must already find other ways to fund new construction initiatives and changing current formulas or requiring additional counties to maintain their roads could lead to a reduction in Urban Construction and Maintenance Funds, placing a huge extra burden on these localities. *(Reaffirms previous position).*

### **EQUAL TAXING AUTHORITY FOR COUNTIES, CITIES AND TOWNS**

NVTA supports granting counties the authority cities and towns currently have to enact local excise taxes, including the cigarette tax, admissions tax, and meals tax. Doing so would allow counties to raise additional revenues for transportation projects. *(Reaffirms previous position)*

### **BASE REALIGNMENT AND CLOSURE (BRAC) RECOMMENDATIONS**

NVTA supports the inclusion of sufficient funding to ensure significant fiscal resources to address the enormous planning and transportation issues associated with the Base Realignment and Closure Commission recommendations. This is particularly critical, because the BRAC relocations have occurred, and Northern Virginia localities are facing significant shortfalls in the capacity of current infrastructure to support the additional military and civilian jobs. *(Reaffirms previous position).*

### **PEDESTRIAN AND TRANSIT SAFETY**

Safe access to transit facilities can be improved through infrastructure improvements and better traffic safety laws. NVTA supports revisions to Virginia's existing pedestrian legislation to clarify the responsibilities of drivers and pedestrians in order to reduce the number of pedestrian injuries and fatalities that occur each year. In particular, support legislation that would require motorists to stop for pedestrians in crosswalks at unsignalized intersections on roads where the speed is 35 mph or less and at unsignalized crosswalks in front of schools. This issue is of special importance for pedestrians with physical or sensory disabilities, who are at particular risk of injury when crossing streets. Further, strong safety records depend on strong safety practices and training and NVTA supports training programs for transit systems, pedestrians and bicyclists. *(Revises and reaffirms previous position.)*

### **MAXIMIZING USE OF EXISTING FACILITIES**

*High performance, high capacity transit requires smart usage of existing road facilities. Localities in cooperation with the Commonwealth (DRPT and VDOT) should ensure that urban design standards for transportation system components allow for the efficient movement of vehicles; accommodate safe pedestrian and bicyclist movement; and encourage user-friendly access to transit. More flexibility in the design of transit infrastructure and facilities that enhance safety should be provided. Additionally, localities with cooperation of the Commonwealth, should to identify existing facilities that can be flexed or used by transit vehicles on an as needed or scheduled basis in order to maximize the efficient use of roadways to expand capacity. Examples are:*

*The conversion of shoulders for bus use during peak rush hour - with appropriate*

*safety practices and improved infrastructure - will improve service and expand capacity on important corridors.*

*Express Bus, Commuter Bus, and Bus Rapid Transit as well as Light Rail and Streetcar; and*

*Expanded use of Buses in HOT lanes.*

*(New Position)*

### **CHAPTER 729 PLANNING**

Land use provisions included in legislation during the 2012 Session changed transportation planning requirements for jurisdictions. Specifically, the Virginia Department of Transportation (VDOT) and the Commonwealth Transportation Board (CTB) can decide whether local transportation plans are consistent with their current priorities. If they decided this is not the case, they are able to withhold funding for transportation projects in counties. While the NVTa is appreciative of efforts to better coordinate local and state transportation planning, the Authority is concerned that these provisions essentially transfer the responsibility for land use planning from local governments to the Commonwealth. Land use and zoning are fundamental local responsibilities and these provisions can override the work done by our local governments and our residents, property owners, and the local business communities on land use and transportation plans. *(Reaffirms previous position)*

### **TRANSPORTATION COORDINATION AND REGIONAL STUDIES**

NVTa believes it is critical for ongoing coordination between the Authority and the Commonwealth. Additionally, it is vital that the Commonwealth involve local and regional officials in any studies or audits related to funding, planning, operations, organizational structure and processes related to agencies in the Transportation Secretariat. This is essential as VDOT commences work on the evaluation created by HB 599, which will directly impact NVTa and its future actions. Further, NVTa recommends that the Code of Virginia be amended to specify that transportation studies related to facilities wholly within one VDOT construction district, should be managed by that construction district rather than the VDOT Central Office. Regional VDOT staff is better equipped to address the concern of the affected citizens and local governments. *(Revises and reaffirms previous position).*

## **FEDERAL**

### **SURFACE TRANSPORTATION PROGRAM REAUTHORIZATION**

In July 2012, Congress passed a two-year transportation reauthorization bill, Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21). This bill provides \$120 billion for federal transportation programs from July 2012 – September 2014. The bill does not direct funding towards specific projects. The U.S. Department of Transportation (USDOT) is currently developing rules for many of the programs, in consultation with



state departments of transportation, Metropolitan Planning Organizations (MPOs) and other stakeholders.

As discussions on the rulemaking and possible future legislation continue, NVTAs believes that a number of significant issues should be considered, including:

- The level of Federal investment in the nation's transportation infrastructure, including both maintenance of the existing system and expansion, must increase significantly;
- The distribution of funding within the Federal Surface Transportation Program must be simplified and the number of funding programs streamlined.
- The time required to complete the federal review process of significant new transportation projects must be reduced, and the approval process must be consistent across all modal administrations. In addition, federal implementation regulations should be streamlined;
- To recognize the uniqueness of metropolitan areas, greater decision-making authority for determining how transportation funding is spent should be given to local governments and regional agencies, such as the Northern Virginia Transportation Authority;
- Energy efficiency and environmental protection must be addressed in the development of transportation projects; however environmental reviews should be conducted within specified timeframes, so that a project's environmental impacts can be identified and adequately addressed; and
- Safety and security must continue to be an important focus of transportation projects. *(Revises and reaffirms previous position)*

#### ***DEDICATED FUNDING FOR WMATA***

WMATA is the only major transit provider in the country without a permanent dedicated revenue source for a significant part of their revenue base. Congress passed legislation that authorizes \$1.5 billion for WMATA over ten years, if the region adopts a dedicated funding source(s) and provides an additional \$1.5 billion to match the federal funds. All three signatory jurisdictions have passed the compact amendments required to receive the federal funding, and the non-Federal matches are in place. This authorization must continue to be accompanied by annual appropriations. *(Revises and reaffirms previous position).*

#### ***FUNDING FOR THE VIRGINIA RAILWAY EXPRESS***

NVTAs supports the Virginia Railway Express efforts to secure federal funding for the following capital projects: high capacity railcars, positive train control; train storage of rail equipment, station parking expansion, platform extensions and additions, and expansion of commuter rail service. *(Updates previous position.)*

#### ***LIMITS ON COMMUTER RAIL RELATED LIABILITY***

NVTAs calls upon Congress to approve legislation to broaden the applicability of existing

statutory language in 49 USC, 28301 related to commuter rail related liability. The language should be amended to reflect the existing liability standard of a \$250M annual aggregate limit while broadening the cap beyond passenger rail related claims for property damage, bodily injury or death so that they apply to all claims brought by third parties. (*Reaffirms previous position*)

***FUNDING FOR TRANSPORTATION EMERGENCY PREPAREDNESS***

NVTA calls upon Congress to provide increased security funding to local and regional transportation agencies in the metropolitan Washington area. (*Reaffirms previous position.*)

***FUNDING FOR THE METROPOLITAN AREA TRANSPORTATION OPERATIONS COORDINATION (MATOC) PROGRAM***

NVTA calls upon Congress to provide increased funding to transportation agencies in the metropolitan Washington area to continue funding for MATOC's operations. (*Reaffirms previous position*)

***COMMUTER PARITY***

NVTA supports legislation that would permanently create parity between the level of tax-free transit benefits employers can provide to employees for transit and for parking benefits, as a way to make transit service more attractive to commuters who currently drive alone. In addition, NVTA supports legislation to permanently extend the current transit benefit to all branches of the federal government. (*Revises and reaffirms previous position*)

**DRAFT**  
**Northern Virginia Transportation Commission**  
**2014 Legislative & Policy Agenda**

For 50 years, NVTC has promoted an efficient, innovative transit network in Northern Virginia. That network now includes seven bus systems from Loudoun County to the city of Alexandria; Metrorail and the Virginia Railway Express -- the Commonwealth's only commuter rail system; and ridesharing -- including a new van pool program. Roadways - from local streets to new Express lanes, bike and pedestrian facilities, and state routes and interstates -- are each vital to the success of the transit network. The transit network in turn relieves congestion on our roadways.

The transit network in Northern Virginia is central to the region's and the Commonwealth's economy. Each day 550,000 Northern Virginians choose transit to get to work, entertainment, shopping, schools and doctors' appointments. Residents and visitors throughout the region choose transit to travel between Northern Virginia, Maryland, and the District of Columbia. Demand for rail and bus service, as well as ride sharing, remains strong and is growing. Businesses across the Metropolitan Washington region are designing and building successful office, retail and residential developments that depend on reliable access to transit. Transit reduces congestion for drivers, helps clean the air, and improves day-to-day life for all Virginians---and that is good for business.

In 2014, NVTC will support legislation and policies that build our transportation network by:

1. Maintaining and expanding opportunities for dedicated, sustainable funding for transit;
2. Using performance metrics to promote efficiency and maximize capital investments;
3. Promoting and strengthening regional cooperation and accountability;
4. Maximizing use of existing facilities to enhance transit performance and safety; and
5. Fostering innovation and technological integration that improves transit operations and expands service.

**1. Maintain and expand opportunities for dedicated, sustainable funding for transit.**

**1.1 Fully implement HB2313.**

NVTC's top priority is the full implementation of HB2313, Virginia's landmark transportation funding legislation. This legislation provides the first opportunity in a generation to address the backlog of transportation projects that are vital to the

economic health of the region and the Commonwealth. Successful implementation includes:

- Balance between investments in roadways, transit and related infrastructure;
- Use of the regionally adopted TransAction 2040 long range transportation plan as the foundation for balanced transportation infrastructure investments across all modes;
- Ensuring new funds raised in Northern Virginia stay in Northern Virginia;
- Strong cooperation between the Commonwealth and the region in developing a legislatively mandated assessment tool to rate projects including the review of a sufficient number of roadway projects to provide the region with real choices and opportunity for progress; and
- Passage of the Market Place Fairness Act of 2013 (S. 336; H.R. 684) by January 1, 2015 in order to provide maximum transit funding across the Commonwealth.

## **1.2 Maintain long-standing funding commitments and prepare to meet future funding needs**

HB2313 builds on an ongoing commitment and should be a catalyst for expanding innovative funding for transit needs. To meet the growing funding needs of NVTC's transit systems, the Commonwealth must continue its financial commitments to WMATA and VRE and work with the region to lay the groundwork for expanded innovative finance and planning.

NVTC supports:

- Continuing to provide the Virginia match to the federal Passenger Rail Investment and Improvement Act of 2008 (PRIIA) funding for WMATA;
- Identifying new funding for Virginia's share of WMATA's *"Momentum: Long Term Strategic Plan"*;
- Maintaining funding for VRE track leases from discretionary federal funds;
- Expanding technical assistance funding for the testing and implementation of the next generation regional fare payment system; and
- Developing and expanding opportunities for innovative finance of transportation infrastructure.

## **2. Use Performance Metrics to Promote Efficiency and Effectiveness**

As called for in SB1140, NVTC supports the use of performance metrics and tiering to promote efficiency and establish priorities for capital investments. However, NVTC seeks changes in the way DRPT is applying these new policies.

**2.1 DRPT should change the way they count ridership on Metrorail -- a key element of the new operating assistance formula.** Recently DRPT implemented a policy that does not count all Metrorail trips in Virginia.

**2.2 NVTC calls for postponing DRPT's overhaul of how state capital funding is calculated.** DRPT should proceed with the statutorily required tiering structure. Before overhauling the state share calculation, DRPT should first report on an updated Six Year Plan, changes in federal funding legislation and the use of federal funds at transit properties throughout the Commonwealth. Otherwise, the tiering structure will be undermined and NVTC jurisdictions will be unfairly penalized. DRPT's proposed change in total cost will result in a multi-million dollar increase in local funding requirements for NVTC's member jurisdictions and places tremendous pressure on local Northern Virginia's transit systems to federalize.

### **3 Promote and strengthen regional cooperation and accountability.**

NVTC brings together local elected officials from cities and counties to ensure high-level accountability to taxpayers who pay for and benefit from NVTC's transit network. NVTC serves as the transit planning authority for Northern Virginia, and brings the localities together to promote and coordinate transit system development, expansion, funding, research and cooperation. NVTC serves as the fiscal agent for seven localities and provides regional expertise on performance metrics, transit finance and technology development. NVTC takes the lead coordinating with regional partners on the Van Pool Alliance and the planning and implementation of the next generation electronic fare payment system for bus and rail. NVTC partners with other regional entities such as NVTA, the Northern Virginia Regional Commission and the Metropolitan Council of Governments to maximize the transit investments and avoid duplication of effort.

NVTC seeks legislation that maintains or strengthens decision making authority of locally elected officials at NVTC, VRE, and NVTA.

### **4 Maximize use of existing facilities to enhance transit performance and improve safety.**

Modern, efficient, high-performance and high-capacity transit requires smart use of existing facilities, particularly roads. The General Assembly and the Virginia Department of Transportation (VDOT) already have many of the necessary tools to make better use of existing road investments. Examples of opportunities to maximize the use of roadways and other infrastructure include:

**4.1** Maximizing bus service on existing Express lanes on I-495 and future Express lanes currently under construction on I-95;

- 4.2 Expanding the bus-on-shoulder pilot, now on limited segments of I-66, to provide safer and faster connections along more than a hundred miles of interstate in the region;
- 4.3 Identifying and implementing innovative, cost-effective vehicle storage solutions for commuter buses;
- 4.4 Employing full flexibility provided in the urban design standards for transportation system components [VA Code Sec. 33.1-69.001]; and
- 4.5 Providing training to ensure safe and secure transit operations.

***Foster innovation and technology integration to improve transit operations and service.***

Innovation, including deployment and integration of technology, is a critical ingredient to making transit work for riders and maximizing the efficient use of all forms of transportation. Examples include:

*Deploying Active Transportation Demand Management (ATDM) & Intelligent Transportation Systems (ITS) to integrate all modes of transportation and increase the number of commuters willing and able to use transit;*

*Acquiring and implement the New Electronic Payment Program (NEPP), a new update for the existing regional electronic fare payment system that will decrease costs and make it easy to move seamlessly from VRE to Metro to local bus systems;*

*Collaborating with Virginia Department of Transportation (VDOT), the Virginia Department of Technology (VDT), NVTC -- and its local governments and transit systems, on technology issues from conceptual design and applications to the identification of appropriate funding to execute them;*

*Partnering on technology deployment, assessment and finance between academia and the private sector; and*

*Expanding telecommuting, ridesharing, and transit ridership during peak and off-peak times through innovative incentives and technology.*

**NVTC looks forward to working with the General Assembly, state, regional and federal partners in support of these principles throughout 2014.**

**DRAFT**

## **Northern Virginia Transportation Commission 2014 Federal Legislative & Policy Agenda**

### **Surface Transportation Program Reauthorization (MAP-21)**

NVTC supports timely reauthorization of MAP-21 as integral to insuring sustainable resources for commuter rail and transit in Northern Virginia and the greater Metropolitan Washington area. As discussions on the rulemaking and development of future federal legislation continue, NVTC supports:

- Increase, significantly, the level of federal investment in the nation's transportation infrastructure, including maintenance and expansion of the existing system;
- Simplify the distribution of the federal Surface Transportation Program funding;
- Reduce the time required to complete the federal review process of significant new transportation projects must be reduced,
- Provide greater decision-making authority to local governments and regional agencies, such as the Northern Virginia Transportation Commission and the Northern Virginia Transportation Authority to determine how transportation funding is spent;
- Establish and maintain adequate timeframes for environmental reviews so that a project's environmental impacts can be identified and adequately addressed; and
- Highlight safety and security as key outcomes transportation projects.

### **Dedicated Funding For WMATA (PRIIA)**

NVTC supports continued annual federal appropriation of \$150 million for the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). Under this legislation, Congress committed to \$1.5 billion for WMATA over ten years, if the region adopts a dedicated funding source(s) and provides an additional \$1.5 billion to match the federal funds over the same period. All three signatory jurisdictions have passed the compact amendments required to receive the federal funding, and the non-Federal matches are in place.

### **Funding for the Virginia Railway Express (VRE)**

As a co-owner of the Virginia Railway Express NVTC supports legislation that contributes to the overall expansion of commuter rail service to meet growing demand in Northern Virginia. NVTC supports efforts to secure federal funding for the following capital projects:

- high capacity railcars;
- positive train control;
- train storage of rail equipment;
- station parking expansion; and
- platform extensions and additions.

### **Limits on Commuter Rail Related Liability**

NVTC calls upon Congress to approve legislation to broaden the applicability of existing statutory language (49 USC, 28301) related to commuter rail related liability. The language should be amended to reflect the existing liability standard of a \$250M annual aggregate limit

while broadening the cap beyond passenger rail related claims for property damage, bodily injury or death so that they apply to all claims brought by third parties.

**Funding for Transportation Emergency Preparedness**

NVTC calls upon Congress to provide increased security funding to local and regional transportation agencies in the metropolitan Washington area.

**Commuter Benefits**

NVTC supports legislation (S. 1116; H.R. 2288) that would permanently create parity between the level of tax-free transit benefits employers can provide to employees for using transit to get to work and for parking benefits. This makes transit service more attractive to commuters who currently drive alone.

NVTC also supports legislation to permanently extend the current transit benefit to all branches of the federal government.

**Marketplace Fairness Act of 2013**

NVTC supports passage of the Marketplace Fairness Act (S. 336; H.R. 684) by January 1, 2015. Enactment of the Marketplace Fairness Act is integral to Virginia's historic transportation funding package, HB2313. Without it, funding will fall short of needs in Northern Virginia and the rest of the Commonwealth.



RESOLUTION 2013-37

RESOLUTION REQUESTING THE GENERAL ASSEMBLY TO AMEND SECTIONS 3.04, 4.05, AND 20.02 OF THE CITY CHARTER TO CONFORM WITH CITY CHARTER SECTION 3.01 SETTING A NOVEMBER ELECTION DATE FOR CITY COUNCIL AND THE SCHOOL BOARD

BE IT RESOLVED by the City Council of the City of Falls Church, as follows:

that the Virginia General Assembly is hereby requested to amend Sections 3.04, 4.05, and 20.02 of the City Charter, as follows

**Sec. 3.04 – Vacancies in office of member of city council.**

When a vacancy occurs in the office of member of the council, whatever the cause, the vacancy shall be filled for the unexpired portion of the term by special election at the next November general election date, as provided in Code of Virginia, § 24.2-226. The remaining members of the council shall make an interim appointment to fill the vacancy, as provided in Code of Virginia, § 24.2-228.

**Sec. 4.05 – Induction of Members.**

The first meeting of a newly elected council shall take place in the council chamber in the city hall at 7:30 p.m. on the first Monday after the first Friday in January. The oath of office for duly elected members shall be administered prior to January 1 by the City Clerk or any judicial officer having jurisdiction in the City. The council shall be the judge of the election and qualifications of its members. The first business of the council shall be the election of a mayor and vice-mayor and the adoption of rules of procedure. Until this business has been completed the council shall not adjourn for a period longer than forty-eight (48) hours.

**Sec. 20.02(d) -- School Board**

The school board shall meet annually in ~~July~~ *January* at which time the board shall fix the time for holding regular meetings for the ensuing year, and may adjourn from day to day, or time to time, before the time fixed for the next regular meeting, until the business before it is completed. At such annual meeting, the school board shall elect one of its members chairman and on recommendation of the division superintendent, elect or appoint a competent person as clerk of the school board, and shall fix his compensation. The chairman and clerk shall be selected annually, but if a vacancy in either office occurs during any year, the school

board may fill such vacancy for the remainder of the unexpired term.

- 2) that the City Manager and City Attorney are hereby directed to prepare such documents to the City's Virginia General Assembly as necessary to request and support such Charter amendment.

Reading: 11-25-13  
Adoption: 11-25-13  
(TR13-38)

IN WITNESS WHEREOF, the foregoing was adopted by the City Council of the City of Falls Church, Virginia on November 25, 2013 as Resolution 2013-37.



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Kathleen Clarken Buschow  
City Clerk

RESOLUTION 2013-38

RESOLUTION FOR IRREVOCABLE ELECTION NOT TO PARTICIPATE IN  
VIRGINIA LOCAL DISABILITY PROGRAM

WHEREAS, by enacting Chapter 11.1 of Title 51.1 of the *Code of Virginia*, the Virginia General Assembly has established the Virginia Local Disability Program (“VLDP”) for the payment of short-term and long-term disability benefits for certain participants in the hybrid retirement program described in Virginia Code § 51.1-169; and

WHEREAS, for purposes of VLDP administration, an employer with VLDP-eligible employees may make an irrevocable election on or before November 1, 2013, requesting that its eligible employees not participate in VLDP as of the effective date of January 1, 2014, because it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees that meets or exceeds the coverage set out in Chapter 11.1 of Title 51.1 of the *Code of Virginia*, with the exception of long term care coverage, by January 1, 2014; and

WHEREAS, it is the intent of the City of Falls Church 5-5224, to make this irrevocable election to request that its eligible employees not participate in VLDP.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Falls Church, Virginia that the City of Falls Church irrevocably elects not to participate in VLDP because it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees; and

BE IT FURTHER RESOLVED that, as an integral part of making this irrevocable election, the City of Falls Church certifies that it has or will establish, and continue to maintain, comparable employer-paid disability coverage for such employees.

Adopted in City of Falls Church, Virginia this 25<sup>th</sup> day of November, 2013.

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Authorized Signature

Title