

MEMORANDUM

To: Lloyd Robinson, FAMPO Director
From: Geoff Slater
Date: December 18, 2007
Subject: Development of an Interim Transportation District

The current direction of the Transit Policy Plan is toward the development of a Regional Transportation Authority (RTA) that would assume responsibility for the maintenance and development of the George Washington Region's bus, ridesharing, and roadway services and facilities. The formation of an RTA will require legislation, and will entail a multi-year process.

At the same time, the City of Fredericksburg desires to divest itself of sole responsibility for FRED, which has grown from its inception as a city transit system to a regional transit system. The City would like this divestiture to occur by July 1, 2008, which is sooner than an RTA could be established.

The City also needs to protect its fiscal resources, and cannot divest itself of FRED if the result would be substantially higher costs. Similarly, the Region's Counties cannot be expected to assume joint responsibility for FRED if it would substantially increase their costs. One solution would be to form an interim Regional transit entity that would assume responsibility for FRED service and that would allocate costs between jurisdictions in an equitable manner based actual costs and the amount of service received. This memorandum describes options for an interim entity, the pros and cons of each, and recommends the establishment of an interim Transportation District as the most effective option.

The new Transportation District would first assume policy control over local transit services. Then once formed, it would determine the most appropriate methods for administration, service delivery and maintenance of equipment and facilities. It would also develop implementation plans to transition these functions from the City of Fredericksburg

to the new Transportation District (continued operation by the City under contract to the Transportation District would also be an option).

These changes would require approval by the Transportation District's policy board, which would represent the member jurisdictions, and possibly the Department of Rail and Public Transportation (DRPT). The Governor would also need to designate the new District as the subrecipient for formula and discretionary grants (Section 5307, Section 5311 and State formula grants). Close coordination with the Federal Transit Administration (FTA) is also highly recommendable.

Interim Options

Options for an interim transit entity would be the same those previously presented as long-term options, minus the status-quo, and the Transportation Authority. These options would be:

- Separate Transit Systems for Each Jurisdiction
- Expansion of PRTC
- Creation of a Transportation District
- Creation of a Service District

Through a process of elimination, the creation of a George Washington Region Transportation District appears to be the most effective approach to transition control quickly and address the immediate short-term requirements of the region's jurisdictions:

- **Separate Transit Systems for Each Jurisdiction:** While this is a plausible option, it is inherently cumbersome because transit services cross jurisdictional boundaries and such services require joint planning, sponsorship, etc. Since the future portends more and more inter-jurisdictional service, a structure designed to facilitate regional policy-making is clearly preferable.
- **Expansion of PRTC:** Jurisdictions that are members of PRTC are required to levy the 2% tax on motor fuels (Virginia tax code Section 58.1-1720). As a result, this option would not be suitable for counties that do not desire to levy the tax. Also, many of the stakeholders interviewed as part of this study expressed concerns that an expansion of PRTC to encompass the George Washington Region would lessen local policy-making control.
- **Creation of a Transportation District:** The creation of a George Washington Region Transportation District could transition responsibility for FRED service delivery from the City to a new entity, and ensure that policy-making control remains within the George Washington Region. It would not require, or enable, any

jurisdiction to levy new taxes. However, jurisdictions that did desire to levy the 2% tax could also join PRTC, and belong to both Transportation Districts.

- **Creation of a Service District:** Virginia law enables the creation of service districts to provide services within certain areas. Typically these areas are subsets of larger areas (for example, sewer districts), but technically a Service District could be developed that encompassed all of the George Washington Region for the purposes of providing transit service. Service Districts can also levy property taxes to fund their services. At the present time, none of the Region's jurisdictions desire to increase property taxes to fund transit. In the absence of a desire or need to levy property taxes for transit, a Service District becomes a less straight-forward way to develop a Transportation District.

On this basis, the development of a Transportation District would provide all of the powers needed to provide interim transit services and ensure that policy-making control remains in the George Washington Region. It would not require any jurisdiction to impose new taxes, but would maintain the option for Spotsylvania, King George, and Caroline Counties to collect the 2% sales tax as a funding source for transit (and other allowable transportation purposes) by becoming a member of PRTC¹. In more detail, the development of an Interim Transportation District would entail actions, powers, and responsibilities described in the following section.

Creation

The Virginia Transportation District Act of 1964 provides local jurisdictions with the authority to create Transportation Districts, without additional legislation. To do so, the governing body of each jurisdiction needs to adopt and file with the Secretary of the Commonwealth an ordinance that:

1. Sets forth the name of the Transportation District.
2. Fixes the boundaries of the Transportation District.
3. Names the Cities and Counties that are included within the Transportation District.
4. Contains a finding that "the orderly growth and development of the County or city and the comfort, convenience and safety of its citizens require an improved transportation system, composed of transit facilities, public highways and other modes of transport, and that joint action through a Transportation District by the Counties and Cities which are to compose the proposed Transportation District will facilitate the planning and development of the needed transportation system."

¹The currently envisioned long-term development of a Regional Transportation Authority would require legislation, and as in Northern Virginia and Hampton Roads. The enabling legislation could also provide the authority for the collection of local fees and taxes, including a 2% motor fuels tax.

In addition, the implementing agreements would also spell out other terms and conditions such as composition of the governing body, the transfer of personnel and property, possible reimbursement of prior City expenditures for regional transit purposes, and future cost sharing.

Local governments may belong to one or more Transportation Districts. Thus, Fredericksburg and Stafford County could become members of a new George Washington Region Transportation District and remain members of PRTC. Membership in the new Transportation District by these two jurisdictions would not impact their membership in PRTC or the collection, administration, or use of the 2% motor fuel tax. It would also not impact their current involvement in VRE (through PRTC) or any VRE funding obligations.

A new Transportation District formed in the George Washington Region would not participate in VRE. PRTC, NVTC, and their member jurisdictions are currently working toward restructuring VRE to become an autonomous agency whose membership would consist of individual jurisdictions rather than Transportation Districts. In this case, individual jurisdictions would negotiate directly with VRE (and not through the new Transportation District) to become members of VRE.²

Composition

An interim Transportation District could be created by the City and one or more of the Region's Counties. Ideally, it would be comprised of all of the Region's localities. However, it could still be comprised of fewer, and in that case, non-member Counties would continue to purchase service on the same basis as they now.

Governance

The Transportation District would be governed by a Commission, the composition of which would be determined by the participating jurisdictions, plus the Chair of the Commonwealth Transportation Board or his designee.

Powers and Functions

A new Transportation District would have powers as granted by the Transportation Act of 1964, which include all those necessary to operate and maintain transit service:

- Prepare transportation plans.

²It is also possible that individual jurisdictions could negotiate "purchase of service" agreements for VRE service. As with potential membership, these negotiations would be between individual jurisdictions and VRE, and would not involve the new Transportation District.

- Construct and acquire the transportation facilities included in the transportation plan.
- Operate or contract for the operation of transportation services. ***Until personnel and assets have been transferred, the Transportation District to contract with the City for continued operation of service on a contractual basis.***
- Enter into contracts and agreements.
- Issue bonds.
- Provide operating and capital funding for services operated by others.
- Acquire land through purchase, lease, gift, condemnation, or otherwise, either for its own use or on behalf of other agencies in connection with an adopted mass transit plan.
- Regulate fares, determine schedules and routes, and franchising agreements within its boundaries.
- Enter into contracts and agreements with adjoining Counties and Cities that are within the same Planning District, and with adjoining Transportation Districts, to provide transportation services to and from those areas, and to operate related facilities. ***This means that if fewer than all of the Region's jurisdictions were to join the new Transportation District, then the non-member jurisdictions would need to negotiate purchase of service agreements with the new Transportation District. These agreements would be negotiated and executed in the same manner as current agreements between the Counties and the City.***
- Apply for and receive loans and grants of money and property.
- Regulate traffic signals and other vehicle control devices.

As described above, Transportation Districts can contract for service from other entities. This would mean that a new Transportation District could assume responsibility for transit operations even if the all terms for the transfer of personnel and property to the new Transportation District have not been finalized. In that case, the new Transportation would contract with the City for the operation of service during the interim period.

Taxing and Funding Authority

The new Transportation District would not have any taxing authority. This would mean that member jurisdictions would not have the authority to collect the 2% gasoline sales tax, nor could they be required to collect the 2% gasoline sales tax.³

The new Transportation District could become the Region's designated recipient for federal transit funds.

³ The Transportation District Act specifically authorizes certain jurisdictions, including PRTC member jurisdictions, to collect the 2% sales tax. This authorization would not extend to the members of a new George Washington Region Transportation District.

Expenditure Decisions

Expenditure decisions (both operating and capital) would be made by the governing commission. Expenditure and funding requirements could also be incorporated into the agreements negotiated between the participating jurisdictions during formation of the district, and could incorporate measures of financial and service equity.

Member Funding Obligations

The Transportation District's Commission would be responsible for determining an equitable funding allocation among the participating members. This allocation must take into consideration the cost of facilities in each jurisdiction, population, transportation benefits, and "all other factors." The proposed cost allocation would be as described in the "Transit Cost Allocation" working paper.⁴

Withdrawal

Any member could withdraw from the Transportation District by resolution or ordinance. The withdrawal would not relieve the locality from any obligation or commitment made or incurred while a District member.

Service Delivery

The new Transportation District would determine the most appropriate approaches for administration, service provision (operations), and maintenance. For example, the Transportation District could:

- Contract with a member jurisdiction for services (for example, similar to the way in which Stafford County provides legal services to the GWRC). At least in the beginning, the City would continue to provide service and be reimbursed for the Counties' shares of costs. Then, the new Transportation Commission could decide to continue with that arrangement (with the City's consent), or transition to a new partner.
- Contract with a third party. Options would include private contractors and PRTC, among others.
- Hire its own staff (which could include transitioning current FRED staff to the new District).

Different approaches could be used for different functions.

⁴ George Washington Region Transit Policy Plan, Financial Analysis, Working Paper 2, Transit Cost Allocation, Nelson\Nygaard Consulting Associates, October 11 2007.