



Northern Virginia Transportation Authority

The Authority for Transportation in Northern Virginia

GOVERNANCE AND PERSONNEL COMMITTEE

Thursday, October 14, 2021

5:30 PM

NVTA Offices

Meeting to be conducted in person and Live Streamed via YouTube

AGENDA

1. **Call to Order** Chair Randall
2. **Approval of Deferred July 8, 2021 Meeting Summary**
Recommended Action: Approval of Meeting Summary, (with abstentions from those who were not present).
3. **Approval of the September 9, 2021 Meeting Summary**
Recommended Action: Approval of Meeting Summary, (with abstentions from those who were not present).

Discussion/Information

4. **Draft 2022 Legislative Program, Report and Discussion** Ms. Backmon, CEO
Ms. Baynard, McGuire Woods Consulting, LLC
5. **CEO Compensation Analysis** Mr. Longhi, CFO

Closed Session

(Personnel Matter)

6. **Adjournment**

Next Meeting: November 18, 2021 at 5:30 PM

NVTA Offices



Northern Virginia Transportation Authority
The Authority for Transportation in Northern Virginia

GOVERNANCE AND PERSONNEL COMMITTEE

Thursday, July 8, 2021

5:30 PM

NVTA Offices

Meeting conducted in person and Live Streamed via YouTube

SUMMARY MINUTES

1. Call to Order

Vice Chairman Snyder

- ✓ Vice Chairman Snyder (who chaired on behalf of Chair Randall) called the meeting to order at 5:35pm.
- ✓ Attendees:
 - Members: Vice Chairman Snyder; Chair Wheeler, Mayor Davis-Younger, Supervisor Alcorn (on behalf of Chairman McKay).
 - Staff: Monica Backmon (Executive Director); Michael Longhi (CFO); Erica Hawksworth (Communications & Public Affairs Manager); Margaret Duker (Executive Asst/Clerk).
 - Other Attendees: Rob Dickerson (Council of Counsel – Prince William County); MinhChau Corr (Council of Counsel – Arlington County).
 - Jurisdictional and agency staff as well as the public were able to view the meeting via the Authority's YouTube channel.

2. Approval of the June 10, 2021 Meeting Summary

Recommended Action: Approval of Meeting Summary, (with abstentions from those who were not present).

- ✓ Chair Wheeler moved for the acceptance of the June 10, 2021 Meeting Minutes; seconded by Mayor Davis-Younger. Motion passed by 2-0-1 as Vice Chairman Snyder abstained since he was not part of the previous month's meeting.

Action Item

3. Chief Executive Officer Position Description and Compensation Consulting Engagement

Mr. Longhi, CFO

Recommended Action: Committee Recommendation to the Authority of Consultant Selection

- ✓ Mr. Longhi noted that the Governance and Personnel Committee (GPC) has been working on the Executive Director's annual performance review and related compensation for some months now.
- ✓ He noted that after several efforts, over several months to come up with different options for the Chief Executive Officer (as the GPC requested the position be addressed in this

- process) position description and compensation study, the GPC requested at the June meeting that a Request for Proposals (RFP) be issued for an independent consultant to update the Chief Executive Officer position description and perform a compensation analysis.
- ✓ He noted that the GPC recognized the short timeframe to complete this effort prior to their September meeting, explaining that the RFP was issued on June 16, 2021, with a deadline of noon on June 28, 2021. The RFP was posted on eVA and NVTA websites as well as distributed to various firms with a request to forward to interested parties. Notice of the RFP was also sent directly to 11 executive search consulting firms via their online portals.
 - ✓ Mr. Longhi noted that three proposals were received by the due date.
 - ✓ Out of the three firms, two scored high enough to advance to the negotiation, best and final offer stage.
 - ✓ He noted the details of why one firm became the clear preferred choice through the evaluation process. As part of the description, he noted the pros and cons of the approaches of each firm. He stated that the cost for the recommended firm was \$5,000 above the initial estimate of \$20,000, while the second ranked firm, which was not recommended, was \$8,000 less.
 - ✓ He added that Board Member Cristol, after reviewing the proposal details contained in the staff report and noting the cost variance, emailed her strong support to move forward with the recommended firm. (Hardcopies of the emails were provided to the Committee.)
 - ✓ Supervisor Alcorn inquired how the consultant planned to do the market pricing analysis.
 - ✓ Mr. Longhi noted the consultants will use the position description revisions to determine compensation factors for the position.
 - ✓ Mr. Longhi also stated that the Consultant will take individual factors from the revised position description, put a market value on those points then develop a compensation analysis.
 - ✓ This is a method which is used when there are not comparable to positions or organizations with a similar size, type and scope.
 - ✓ Vice Chairman Snyder inquired as to whether any other organization or outside parties had reviewed the procurement.
 - ✓ Mr. Longhi responded no, noting the short turnaround time to have a report, however, this is the same process that has been used in the past for other NVTA procurements.
 - ✓ Vice Chairman Snyder inquired as to whether the Council of Counsel had reviewed the agreement.
 - ✓ Mr. Longhi replied they had not been asked to review as no legal questions had arisen. He noted the resolution could be modified with 'subject to review by the Council of Counsel'.
 - ✓ Supervisor Alcorn also noted that he would appreciate the Council of Counsel review the proposal.
 - ✓ Mr. Dickerson, Council of Counsel Member, (Prince William County) addressed the Committee noting a Council of Counsel review would only address the appropriateness of the procurement process, not qualitative aspects of the firm recommended.
 - ✓ Vice Chairman Snyder requested the motion be modified to include recommending Authority approval subject to review by the Council of Counsel.
 - ✓ Mr. Dickerson, affirmed that they will review the proposal for compliance with the Code of Virginia.

- ✓ Mayor Davis-Younger moved Governance and Personnel Committee recommendation of the attached agreement with the Millennium Group International LLC for Authority approval subject to review by the Council of Counsel; seconded by Chair Wheeler. Motion passed unanimously.
 - ✓ Vice Chairman Snyder asked whether there would be any General Assembly updates and how will it be known if an issue relevant to the Authority, arises.
 - ✓ Ms. Backmon responded that the General Assembly Special Session starts August 2, 2021, and the Authority will be kept updated of any developments through NVTAs legislative liaison, Ms. Baynard.
 - ✓ Vice Chairman Snyder thanked everyone and proposed to adjourning the meeting.
4. **Adjournment:** The meeting adjourned at 6:00pm.

Next Meeting: September 9, 2021 at 5:30 PM
NVTA Offices



Northern Virginia Transportation Authority
The Authority for Transportation in Northern Virginia

GOVERNANCE AND PERSONNEL COMMITTEE

Thursday, September 9, 2021

5:30 PM

NVTA Offices

Meeting conducted in person and Live Streamed via YouTube

SUMMARY MINUTES

1. Call to Order

Chair Randall

- ✓ Chair Randall called the meeting to order at 5:38pm.
- ✓ Attendees:
 - Members: Chair Randall; Chair Wheeler, Board Member Cristol; Mayor Davis-Younger, Chairman McKay (joined 6:03pm).
 - Staff: Monica Backmon (CEO); Michael Longhi (CFO); Erica Hawksworth (Communications & Public Affairs Manager); Margaret Duker (Executive Asst/Clerk).
 - Other Attendees: Rob Dickerson (Council of Counsel – Prince William County); Daniel Robinson (Fairfax County); Joanna Anderson (City of Alexandria - participated remotely); Tracy Baynard (McGuire Woods Consulting LLC.); Martin Kenny (The Millennial Group - participated remotely).
 - Jurisdictional and agency staff as well as the public were able to view the meeting via the Authority's YouTube channel.

1. Approval of the July 8, 2021, Meeting Summary

Recommended Action: Approval of Meeting Summary, (with abstentions from those who were not present).

- ✓ Action Deferred.

Action Items

2. Amendment to Bylaws – Subsequent Reading

Mr. Longhi, CFO

Recommended Action: Committee Recommendation to the Authority of Bylaws Amendment

- ✓ Mr. Longhi informed GPC Members that the Bylaws has to go through two readings, and this serves as the second reading for the amendment to change the Executive Director's title to Chief Executive Officer, in alignment with the Virginia Code.
- ✓ He noted that feedback from the Commonwealth to Delegate Watt's question (from the last July Authority meeting) as well as from the Council of Counsel indicates that this is permissible but not required.
- ✓ Chair Randall noted that although this is permissible, she believes the appropriate thing to do is to proceed with the title change as intended.

- ✓ Chair Randall moved the Governance and Personnel Committee recommend Authority adoption of the proposed Bylaws position title changes presented below; seconded by Board Member Cristol. Motion passed 4-0-1 (Chair McKay having not joined the meeting).

3. Chief Executive Officer Position Description and Compensation Consulting - Proposed Position Description

Mr. Longhi, CFO

Recommended Action: Committee Recommendation to the Authority of Consultant

Proposed Position Description

- ✓ Mr. Longhi informed Members of the GPC that the Authority approved the contract award with The Millennial Group at the July 8, 2021, Authority meeting.
- ✓ Following that, the Millennial Group has been diligently working on the position description analysis for the Authority.
- ✓ As part of the process, a number of current and one former Authority Members were interviewed, including Chair Randall, Chair Wheeler, Mayor Parrish, Mayor Rishell, Board Member Cristol and Ms. Backmon.
- ✓ In addition, The Millennial Group have been conducting market research of comparable from the public sector and have submitted a draft Chief Executive Officer position description for review.
- ✓ Based on this draft, TMG have started the compensation analysis part for this position. Final results of this research will be submitted to the Authority in October.
- ✓ M. Longhi noted that Mr. Kenny from the Millennial Group was on the Zoom meeting to answer any questions members may have.
- ✓ Board Member Cristol noted that she was pleased talking to TMG as they were very thorough, asked the right questions for this analysis, with some amendments from her but overall, appreciates their efforts. Chair Wheeler noted similar experience with TMG.
- ✓ Chair Randall noted she is glad this analysis was done because she realized that there has always been this wrong comparison of similar jobs with top level positions, but it is important to note that each one has specialized skillsets.
- ✓ Board Member Cristol moved the Governance and Personnel Committee recommend Authority adoption of the attached Chief Executive Officer Position Description; seconded by Chair Wheeler. Motion passed 4-0-1. (Chair McKay having not joined the meeting.)

Discussion/Information

4. 2022 Legislative Program, Report and Discussion

Ms. Backmon, CEO

Ms. Baynard, McGuire Woods Consulting, LLC

- ✓ Ms. Backmon noted that the NVTa is in the process of updating its Six Year Program but as always, there is never enough resources for all the many initiatives as this is four times oversubscribed.
- ✓ She added that there are heavy needs regarding transportation infrastructure in this region, thus the need for full restoration of all funding due NVTa.
- ✓ Ms. Baynard continued with the update noting that one of the main items on the Legislative program is the issue of NVTa's remaining funding gap of \$38.5 million and the need to use state funds as part of the restoration.

- ✓ Chair Randall noted that Loudoun County has started its draft 2022 Legislative Program and urged all localities to make restoration a priority in the legislative programs for their respective jurisdictions.
- ✓ She also asked Ms. Baynard if there is a way to make it arduous for any entity to take money away from the NVTa in future.
- ✓ Ms. Baynard responded that language could be added to the legislative program.
- ✓ She further noted that a Transportation Technology Strategic Plan (TTSP) section has been added to the legislative program as a new section.
- ✓ Discussions will continue regarding the power grid, electric vehicles, and infrastructure.
- ✓ Chair Randall inquired whether the outgoing Governor would have the half a billion programmed prior to his leaving office.
- ✓ Ms. Baynard responded that it may likely be accounted for in the budget for the incoming Governor.
- ✓ Board Member Cristol asked that as a lot of jurisdictions are looking into the cost of electric buses, adding transit vehicles to the legislative program
- ✓ Ms. Backmon noted that NVTa can support electric buses as was done for the City of Alexandria.
- ✓ Ms. Baynard made a note to add transit vehicles to the legislative program.
- ✓ She also pointed that there is always concern about coastal flooding but there is the need to also look closely at urban flooding as well.
- ✓ Looking ahead at the number of study results coming out of General Assembly initiated endeavors, there is the need to make sure that Northern Virginia has opportunity to access future funding programs created from these studies. She noted that a few of such studies include the following:
 - OIPI Multi-Use Trail Study (due October 2021).
 - DRPT's Transit Modernization and Equity Study (Interim report due December 2021).
 - JLARC Transportation Funding Study (Report due in November 2021).
 - Rebuild Quantico Study – Public briefing is next week and feasibility studies and baseline report due in December.
- ✓ She pointed to the need to pay attention to a provision for the high efficiency fee as alternative vehicle uses increase, gas tax decreases and noted that the Department of Motor Vehicles (DMV) has been charged with putting together a pilot study on this.
- ✓ Chair Randall noted that when one purchases a new electric vehicle, it comes with a host of benefits, whereas if the electric vehicle is purchased used, there are no benefits. As such, she noted the need to address this in order for buyers to still gain those benefits of purchasing electric vehicles, regardless of whether the vehicle is completely new or partially used.
- ✓ Chairman McKay added that people who lease the electric vehicles do not get the rebate benefit either.
- ✓ Ms. Baynard noted that since gas supports multiple modes in Northern Virginia, JLARC is reviewing this issue.
- ✓ Board Member Cristol and Chairman McKay highlighted the need for more investment in trails in Northern Virginia, with Chairman McKay adding that these enable children to walk to school.

- ✓ Ms. Baynard responded that she will certainly look into adding it.
- ✓ She went on to add there may be a great deal of re-orientation based on who is elected as Governor in the region.
- ✓ Another item to be added to the legislative program is to coordinate with Northern Virginia Transportation Commission (NVTC), regarding additional funding for transit. Chairman McKay pointed that looking at the realities of what localities are dealing with, he would love to see true partnership for long term capital for Metro and its operating subsidies, adding that this is very important due to what localities went through and thinks this is the opportunity to make it known.
- ✓ Ms. Baynard responded that she will coordinate with the localities regarding the language for this section.

5. **Adjournment** – The meeting adjourned at 6:28pm.

Next Meeting: October 14, 2021, at 5:30 PM
NVTA Offices

MEMORANDUM

TO: Chair Phyllis J. Randall and Members
Governance and Personnel Committee

FROM: Monica Backmon, Chief Executive Officer
Tracy Baynard, McGuireWoods Consulting LLC

DATE: October 5, 2021

RE: Updated Items for the 2022 Legislative Program

Staff has completed further updates to the Legislative Program based on the comments at the September meeting.

Transportation Technology Strategic Plan and Electric Vehicles

Revised the TTSP section to focus on the overall description.

- The detailed 2022 focus will be on electric vehicle related initiatives such as funding the Virginia Electric Vehicle Rebate Program and a possible funding or policy discussion regarding EV charging infrastructure.
- See materials related to the Virginia Electric Vehicle Rebate Program
 - Provides rebate for purchase or lease of new or used vehicles
 - An additional \$2,000 rebate provided for households make at or less than 300% of the federal poverty level.
 - \$40 million funding request to implement the program

Revised Washington Metropolitan Area Transit Authority Section

State and Federal sections revised to expand on request for great federal participation in funding WMATA capital and operation expenses.

Studies that May Produce 2022 General Assembly Proposals (Bills or Funding Requests)

Updated to reflect Authority member interest in specific elements related to implementation of any study recommendations.

- Interim update of the Virginia Energy Plan – Report due October 2021
 - To include analysis of Virginia's current EV charging infrastructure and what's needed to support 2045 net-zero carbon target
 - Ensure any funding and strategy includes specific goals for building EV charging infrastructure in low-income communities
- Office of Intermodal Planning and Investment Multi-Use Trail Study – Report due October 2021

- Prioritization process to identify new trails, a master planning process and funding needs assessment
- Ensure any project prioritization process recognizes the unique needs and opportunities in Northern Virginia, i.e. participation in the National Capital Trail Coalition or the Fairfax County Walk to School initiative
- Joint Legislative Audit and Review Commission Transportation Funding Study – Report due November 2021
- Department of Rail and Public Transportation Transit Modernization and Equity Study– Interim report due December 2021
- Department of Rail and Public Transportation Springfield to Quantico Enhanced Transit Study – report due December 2021
- Virginia Department of Transportation measurement of transportation sector greenhouse gas emission levels in the Commonwealth – December 2021

Authority Funding Status – Ongoing Research

The overview describing current state of funding has not changed. The Governance and Personnel Committee asked staff to research what options there might be to make it harder to divert the Authority's funding sources.

The most frequently used “barrier” to a legislative action is to require a super majority or two-thirds vote to approve an action. From 2010 – 2013 there were multiple resolutions and bills each year to protect the Transportation Trust Fund by requiring a two-thirds vote of each body to “borrow” transportation funds for a non-transportation use. Most of the initiatives also mandated paying back the Trust Fund within 3-4 years with interest. None of these bills were adopted by the General Assembly and the public never got a chance to vote on the constitutional amendment.

Staff continues to look for other examples in the Virginia Code that create barriers to a specific action such as diversion of funding sources.

Transportation Technology Strategic Plan (TTSP) – New Section

The Authority Transportation Technology Strategic Plan (TTSP) was developed as a tool for establishing a proactive approach to innovation, which keeps congestion reduction top of mind. The full TTSP is maintained as a living document, to reflect the continued evolution of transportation technologies and to allow Authority staff the flexibility to update and refine it as necessary. It is comprised of an Action Plan and **eight strategies that address congestion reduction, accessibility, cybersecurity/privacy, autonomous vehicles (especially zero-occupancy passenger vehicles), pricing mechanisms, communications infrastructure, regional interoperability, and electric vehicle infrastructure.**

TTSP activity will be grounded in the Authority's vision and core values including equity, sustainability and safety.

Electric Vehicles and Electric Vehicle Infrastructure

The Authority supports expanding electric vehicle (EV) use and look forward to identifying multiple funding sources to insure electrification of all modes of transportation.

There has recently been significant movement towards and interest in Electric Vehicle (EV) technology at both the Commonwealth ([EV Readiness Study](#) and unfunded legislation to provide [rebates for purchases of personal EVs](#), and [grants for purchase of EV school buses](#)) and Federal ([Biden administration's commitment to 500,000 EV chargers](#)) levels. Several Authority member jurisdictions have adopted goals to reduce carbon emissions including conversion of transit and agency fleets to EVs. It is critical to ensure equitable access to EVs as early in adoption as possible to avoid the need for retroactive efforts.

- 2022 EV Subtopics
 - Provide \$40 million to fund and implement the Virginia Electric Vehicle Rebate Program adopted during the 2021 General Assembly session. Ensure sufficient funding is provided to the additional rebate provided to households with income at or below 300 percent of the Federal poverty level.
 - Advocate use of any new state and federal funding to help local governments transition transit system vehicles to electric motor vehicles.
 - Ensure any use of public funds to expand Virginia's electric vehicle charging infrastructure contains specific goals for low-income communities to help advance EV use.

Virginia Electric Vehicle Rebate Program

Passed House of Delegates 54-45

Passed State Senate 21-18

Effective January 1, 2022 – January 1, 2027

Unfunded

2022 Funding Request - \$40 million

Purpose: Establish an Electric Vehicle Rebate Program (Program) to help increase purchases or leasing of new or used electric motor vehicles via an incentive to the buyer.

Eligibility for the Rebate:

- Resident of the Commonwealth as of January 1, 2022
- Purchase or lease of a new vehicle with manufacturer base price of not more than \$55,000
- Purchase or lease of a used vehicle with a sale price of \$25,000 or less and 2-7 years old

Rebate Provided:

- \$2,500 for purchase or lease of a new or used vehicle
- Additional rebate provided to a “Qualified Resident”
 - Additional \$2,000 rebate for purchase or lease of a new vehicle
 - Additional \$2,000 rebate for purchase or lease of a used vehicle

Definition of Qualified Resident – Resident with an annual household income that is 300% or less of the current poverty guidelines

- 2021 federal poverty level for a household of 4 = \$26,500
- 300% of the 2021 poverty household level = \$79,500

Other matters:

- Program managed by the Department of Mines, Minerals and Energy (DMME)
- Requires DMME to establish a website for administration of the Program
- Establishes an Electric Vehicle Rebate Program Advisory Council
 - Monitor implementation of the Program and advise DMME
 - Legislative and citizen membership
- Starting July 1, 2024 25% of any unused funds at the end of the fiscal year will be used to fund EV charging infrastructure.
- DMME issues an annual report regarding implementation

VIRGINIA'S ELECTRIC VEHICLE REBATE BILL — HB 1979 (REID)

**\$2,500
REBATE**

Rebate received by general residents on a new vehicle

**\$2,500
REBATE**

Rebate received by general residents on a used vehicle, not exceeding \$25,000

**\$4,500
REBATE**

Rebate received by qualified residents on a new vehicle

**\$4,500
REBATE**

Rebate received by qualified residents on a used vehicle, not exceeding \$25,000

Qualified residents are individuals whose annual income does not exceed 300% of the federal poverty level:

Persons in Household	100% of Poverty Level: Annual Income	300% of Poverty Level: Annual Income
1	\$12,880	\$38,640
2	\$17,420	\$52,260
3	\$21,960	\$65,880
4	\$26,500	\$79,500

ELECTRIC VEHICLES ON THE MARKET

(Representative sample; Legislation capped at \$55,000)

Base Price – New
\$27,000 – \$30,000

Base Price – New
\$30,000 – \$40,000

Base Price – New
\$40,000 – \$50,000

Base Price – New
\$55,000+

Excluded



Nissan Leaf S



Mini Cooper SE



Chevrolet Bolt



Hyundai Kona



Kia Niro EV



Ford Mustang
Mach-E



Volkswagen
ID.4 AWD Pro S



Mercedes-Benz
EQA



Jaguar I-Pace
HSE



Hyundai Ioniq



Mazda MX-30



Volkswagen
ID.4 Pro



Volkswagen
ID.4 AWD Pro



Volkswagen
ID.4 Pro S



BMW iX3



Tesla Model S
Plaid

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 493

An Act to amend the Code of Virginia by adding in Title 67 a chapter numbered 18, consisting of sections numbered 67-1800 through 67-1806, relating to electric vehicle rebate program; creation and funding; report.

[H 1979]

Approved March 31, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 67 a chapter numbered 18, consisting of sections numbered 67-1800 through 67-1806, as follows:

CHAPTER 18.

ELECTRIC VEHICLE REBATE PROGRAM.

§ 67-1800. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advisory Council" means the Electric Vehicle Rebate Program Advisory Council.

"Base price" means the manufacturer's base price for the lowest price trim level of the model and shall not include charges for optional equipment, taxes, title, or registration fees.

"Dealer" means a motor vehicle dealer licensed pursuant to Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2.

"Department" means the Department of Mines, Minerals and Energy.

"Electric motor vehicle" means a two-axle motor vehicle with a base price of not more than \$55,000 that uses electricity as its only source of motive power. "Electric motor vehicle" includes fuel cell electric vehicles.

"EPA" means the federal Environmental Protection Agency.

"Fund" means the Electric Vehicle Rebate Program Fund.

"Participating dealer" means a dealer who is participating in the Program.

"Program" means the Electric Vehicle Rebate Program established pursuant to this chapter.

"Purchase" means the purchase or lease of a new or used electric motor vehicle.

"Qualified resident of the Commonwealth" means a resident of the Commonwealth whose annual household income does not exceed 300 percent of the current poverty guidelines.

"Used electric motor vehicle" means a previously owned or leased electric motor vehicle that is more than two years old and not more than seven years old.

§ 67-1801. Electric Vehicle Rebate Program.

There is hereby established an Electric Vehicle Rebate Program for the purchase of new and used electric motor vehicles to provide an incentive to increase electric vehicle awareness and adoption in the Commonwealth. The Program shall be administered by the Department. The Department shall determine the best method to administer the Program, which may include contracting with a third-party administrator. As provided in § 58.1-2420, the Commissioner of the Department of Motor Vehicles may examine all records, books, papers, or other documents of any dealer in motor vehicles to verify the truth and accuracy of any statement or any other information relating to rebates claimed by the dealer.

§ 67-1802. Eligibility for rebate; amount of rebate.

A. Beginning January 1, 2022, a resident of the Commonwealth who purchases a new electric motor vehicle from a participating dealer shall be eligible for a rebate of \$2,500. A qualified resident of the Commonwealth who purchases such vehicle shall also be eligible for an additional \$2,000 enhanced rebate.

B. Beginning January 1, 2022, a resident of the Commonwealth who purchases a used electric motor vehicle from a participating dealer with a sale price as provided by § 58.1-2401 of not more than \$25,000 shall be eligible for a rebate of \$2,500. A qualified resident of the Commonwealth who purchases such vehicle shall also be eligible for an additional \$2,000 enhanced rebate.

C. Any rebate provided under this chapter shall be applied toward payment for the purchase. The participating dealer shall be reimbursed by the Department from the Fund for each eligible rebate.

D. Rebates available pursuant to this chapter are subject to availability of funds in the Fund.

E. The amount of the rebates provided under this chapter may be increased or decreased annually by the Department in an amount not to exceed the recommendation of the Advisory Council pursuant to subsection A of § 67-1804.

§ 67-1803. Program website.

The Department shall establish a website for the administration of the Program. The website shall include general information for the public, including details about the Program and performance metrics

regarding the Program. The website shall also provide (i) data updated weekly regarding the availability of funds in the Fund at the time of the purchase and (ii) instructions for the dealer as to how to process a reimbursement for the rebate provided pursuant to this chapter.

§ 67-1804. Electric Vehicle Rebate Program Advisory Council.

A. The Electric Vehicle Rebate Program Advisory Council is established to monitor the implementation and operation of the Program and to make recommendations to the Department regarding suggested changes to the Program, including regular assessment to determine the effect of the rebate on increasing electric vehicle sales, whether the Fund allocations pursuant to subsection B of § 67-1805 should be adjusted, and whether an income cap should be established to determine the eligibility of purchasers for a rebate pursuant to this chapter. The Advisory Council shall consider the goal of increasing electric vehicle awareness and adoption in developing and making its recommendations. The Advisory Council shall annually evaluate and recommend an increase or decrease in the amount of the rebates provided under this chapter to reflect the rate of inflation, as defined by the Federal Bureau of Labor Statistics, and the relative price of electric motor vehicles compared with the price of traditional motor vehicles.

B. The Advisory Council shall consist of three legislative members and 13 nonlegislative members as follows: (i) two members of the House of Delegates, to be appointed by the Speaker of the House of Delegates; (ii) one member of the Senate, to be appointed by the Senate Committee on Rules; (iii) three nonlegislative citizen members to be appointed by the Secretary of Transportation, two of whom shall be licensed new motor vehicle dealers and one of whom shall represent a new vehicle dealer association to which a majority of new motor vehicle dealers in the Commonwealth belong; (iv) seven nonlegislative citizen members to be appointed by the Secretary of Natural Resources, two of whom shall represent environmental justice organizations, two of whom shall represent environmental advocacy organizations, one of whom shall represent a vehicle manufacturer association to which a majority of vehicle manufacturers belong, and two of whom shall represent vehicle original equipment manufacturers; (v) the Director of the Department, or his designee, who shall serve *ex officio* with voting privileges; (vi) the Director of the Department of Environmental Quality, or his designee, who shall serve *ex officio* with voting privileges; and (vii) the Executive Director of the Motor Vehicle Dealer Board, who shall serve *ex officio* with voting privileges.

After an initial staggering of terms, legislative and nonlegislative members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. Vacancies shall be filled in the same manner as the original appointments.

C. The Advisory Council shall elect a chairman and vice-chairman annually from among the members. The meetings of the Advisory Council shall be at the call of the chairman, the Director of the Department, or whenever a majority of the members so request.

D. Nonlegislative citizen members shall receive compensation and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties, as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department.

E. The Department shall serve as staff to the Advisory Council.

§ 67-1805. Electric Vehicle Rebate Program Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Electric Vehicle Rebate Program Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this chapter, including expenses related to the administration of the Program by the Department. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department.

B. All funds shall be allocated for the payment of rebates and enhanced rebates in this chapter. Beginning July 1, 2024, 25 percent of any unused funds remaining in the Fund at the end of the fiscal year shall be reallocated to fund electric vehicle charging infrastructure as approved by the General Assembly.

§ 67-1806. Report.

The Director of the Department shall report annually on or before December 1 to the Governor and the General Assembly regarding the implementation and administration of the Program and any recommendations of the Department or the Advisory Council. Each report shall include an assessment of the rebate and enhanced rebate, a recommendation on whether the Fund allocation set forth in subsection B of § 67-1805 should be adjusted, and a recommendation on whether an income cap should be established to determine the eligibility of purchasers for a rebate pursuant to this chapter.

2. That the initial terms of the Electric Vehicle Rebate Program Advisory Council shall be

staggered as follows: (i) of the members of the House of Delegates appointed by the Speaker, one shall be appointed for a term of two years and one shall be appointed for a term of four years; (ii) the member of the Senate appointed by the Senate Committee on Rules shall be appointed for a term of four years; (iii) of the nonlegislative citizen members appointed by the Secretary of Transportation, one shall be appointed for a term of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years; and (iv) of the nonlegislative citizen members appointed by the Secretary of Natural Resources, one shall be appointed for a term of one year, two shall be appointed for a term of two years, two shall be appointed for a term of three years, and two shall be appointed for a term of four years.

3. That the Department of Mines, Minerals and Energy, in consultation with the Electric Vehicle Rebate Program Advisory Council, as created by this act, shall develop and implement a process for verifying eligible purchasers and shall ensure that such process (i) is capable of being administered at the point of sale or lease of a vehicle, (ii) allows for the immediate determination of purchaser eligibility and the total amount of the rebate to which the purchaser is entitled, and (iii) confirms the rebate to the participating dealer.

4. That the provisions of this act shall expire on January 1, 2027.

STATE - WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

(WMATA) WMATA bus and rail services continue to support job and population growth in the Commonwealth of Virginia and Northern Virginia. The Authority, in addition to WMATA's Virginia jurisdictional partners, are on track to enhance the system through significant investments, e.g. Silver Line completion, new Potomac Yard Metro station and numerous park and ride lots along I-66. WMATA, its funding partners, stakeholders and users are at a critical crossroads as we collectively try to determine the future of this important transportation infrastructure and also protect the cumulative billions of dollars already invested by local, state and federal government, by this Authority and by the private sector.

Metrorail in particular is a significant driver of the Commonwealth's and Northern Virginia's economy. The transit system station locations are the focus of some \$25 billion in residential and commercial development and economic activity around rail facilities generates \$600 million a year in state tax revenues.

- a) **State of Good Repair:** The Authority supports legislation and funding necessary to sustain investments in transit and keep transit systems in a state of good repair, including maintaining dedicated funding for Metro.
 - i. The Authority opposes any legislation that would shift the Commonwealth's responsibility for transit funding to localities or regions.
- b) **Safety:** The Authority supports adequate funding for and oversight of WMATA as it enhances the safety and security of the system and its riders. The Commonwealth is a valuable partner in ensuring that WMATA continues to move ahead with important safety and infrastructure capital improvements in its system, and must work with the Federal Government to ensure that it, too, provides sufficient resources.
- c) **Sustainable Funding Reforms:** The Authority supports federal action to extend the annual \$150 million federal capital appropriation known as the Passenger Rail Investment and Improvement Act (PRIIA) thru 2030. *(revised position)*
 - i. Extending the \$300 million annually provided by the federal government, the Commonwealth, Maryland, and the District of Columbia, as provided in Passenger Rail Investment and Improvement Act of 2008 (PRIIA) beyond 2019 is critical. This funding addresses urgent capital needs and is especially important as WMATA works with the federal government and its state and local jurisdictions to improve safety and state of good repair issues throughout its system.

- ii. Capital and operating funding agreements among all Metro stakeholders is essential to ensuring sustainable funding for maintenance and enhancements.
- d) **Maximize Metrorail's Existing Infrastructure:** The Authority supports continued local, regional, state and federal investment in Metro that helps accommodate additional passenger growth in Northern Virginia, which is important for the entire Commonwealth and serves federal facilities in the National Capital Region.
 - i. While focusing on safety and state of good repair, the region must also work to address WMATA capacity needs that serve Northern Virginia residents and businesses and federal facilities. The region is projected to continue to grow over the coming decades, placing more pressure on a Metro system that is already nearing capacity.
 - ii. Improvements to the system's core capacity are needed to attract and accommodate additional riders. Capital and operating resources and efficiencies are critical to ensuring that these needs are addressed. *(Reaffirms previous position)*

FEDERAL -- WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (WMATA) FUNDING:

- a) **Reauthorizing the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) Funding and Safety:** The Authority supports WMATA's efforts to enhance the safety and security of the system and its riders, through adequate funding and oversight.
 - i. The federal government is a valuable partner in ensuring that WMATA continues to move ahead with important safety and infrastructure capital improvements in its system. The Authority calls for the federal government to approve the proposed extension of PRIIA funding at \$150 million through 2030.
 - ii. The Authority calls on the Commonwealth, Maryland and the District of Columbia to continue matching PRIIA funds up to a total of \$150 million as proposed in legislation before the U.S. Congress.
 - iii. This authorization, which must continue to be accompanied by annual appropriations, is especially important as WMATA works with the federal government and its state and local jurisdictions to improve safety and state of good repair issues throughout its system. *(Reaffirms previous position)*
- b) **Maximize Metrorail's Existing Infrastructure:** The Authority supports continued local, regional, state and federal investment in Metro that helps accommodate additional passenger growth in

Northern Virginia, which is important for the entire Commonwealth and serves federal facilities in the National Capital Region.

- i. While focusing on safety and state of good repair, the region must also work to address WMATA capacity needs that serve Northern Virginia residents and businesses and federal facilities. The region is projected to continue to grow over the coming decades, placing more pressure on a Metro system that is already nearing capacity.
- ii. Improvements to the system's core capacity are needed to attract and accommodate additional riders. Capital and operating resources and efficiencies are critical to ensuring that these needs are addressed.
(Reaffirms previous position)

MEMORANDUM

TO: Chair Phyllis J. Randall and Members
Governance and Personnel Committee

FROM: Monica Backmon, Chief Executive Officer
Tracy Baynard, McGuireWoods Consulting LLC

DATE: October 12, 2021

RE: Proposed Changes in Virginia's Open Meeting Law

In 2021 the Northern Virginia Transportation Authority (Authority) supported additional flexibility for public bodies to hold meetings virtually. Below is the 2021 position:

**SUPPORT ADDITIONAL FLEXIBILITY FOR VIRTUAL MEETINGS
FOR PUBLIC BODIES**

Budget language that allows public bodies to hold meetings virtually has enabled the Authority to approve funding appropriations that kept transportation improvements moving forward. We support permanent flexibility to hold meetings electronically that are accessible to the public when health and safety concerns are present and examination of additional flexibility outside of states of emergencies

In 2021 the General Assembly adopted two changes to the electronic meeting statute:

- Made meeting flexibility during a state of emergency (state or local) permanent
- Added ability of a member of a public body to attend a meeting electronically if they are taking care of a member of their family.

The Virginia Freedom of Information Act Council (FOIA Council) continues to explore options for expanding flexibility for public bodies to meet virtually. On October 5, 2021 the Meetings Issues Subcommittee reached consensus on additional changes regarding electronic meetings. The changes would:

- Define three types of electronic meetings: remote participation, all-virtual public meeting and hybrid public meeting.
- List criteria for holding an all-virtual public meeting and restricts use of the all-virtual meeting to two meetings or 25% of the meetings in a calendar year, whichever is greater.
- Requires a public body to adopt a resolution or ordinance prior to allowing remote participation or holding an all-virtual meeting.

A conceptual draft of these changes is attached.

Below is our existing language on electronic meetings with suggested amendments.

Proposed 2022 Authority language:

The Authority supports efforts to maximize flexibilities for regional governments to conduct electronic meetings, allowing greater access to the public and opportunities for members to participate remotely outside of a declared state of emergency.

1 **§ 2.2-3701. Definitions**

2 ...

adds a preference for
in-person meetings to
the definition section

3
4
5 "Open meeting" or "public meeting" means a meeting at which the public may be
6 present. Except as provided in 2.2-3708.2, **open meetings or public meetings are**
7 **presumed to be in person and physically accessible by members of the public.**

ordinary, non-emergency
meetings for ALL public
bodies, including advisory
and regional bodies

8
9
10 **§ 2.2-3708.2. Public meetings held by any public body through electronic**
11 **communication means**

12
13 A. For purposes of this section:

14
15 1. "Remote participation" means when an individual member of a public
16 body uses electronic communication means to participate in a public meeting.

17
18 2. "All-virtual public meeting" means when a public body uses electronic
19 communication means to conduct a public meeting and all members are
20 participating from remote locations.

21
22 3. "Hybrid public meeting" means a public meeting that is accessible by the
23 public both in person and through electronic communication means, including
24 remote participation by one or more members of the public body.

three types of
electronic
meetings

25
26 B. Nothing in this section shall be construed to prohibit the holding of hybrid public
27 meetings, to limit the use of interactive audio or video to expand public observation
28 of meetings or to restrict any avenue for public comment at public meetings where
29 public comment is customarily received.

30
31 C. Individual members of a public body may use remote participation instead of
32 attending a public meeting in person, if, in advance of the public meeting, the public
33 body has adopted a policy as described in subsection E and the member notifies the
34 public body chair:

This is the call-in
section we adjusted
last year. Not much
change here.

35
36 1. That the member has a temporary or permanent disability or other
37 medical condition that prevents the member's physical attendance,

38
39 2. That the medical condition of the member's family requires the member to
40 provide care that prevents the member's physical attendance; or

41
42 3. That the member is unable to attend the meeting due to a personal matter
43 and identifies with specificity the nature of the personal matter. However, the
44 member may not rely on this section more than two meetings or 25 percent of the
45 meetings held per calendar year rounded up to the next whole number, whichever is
46 greater.

anyone can have an all-virtual meeting, but here are the hoops you have to jump through to do it.

47
48 D. Any public body and the entities it creates may hold all-virtual public meetings,
49 provided that the public body follows the same requirements for meetingshas
50 adopted a policy as described in subsection E and:

51
52 1. Has followed the requirements for meeting notice, including the fact that
53 the meeting will be an all-virtual public meeting, in 2.2-3707.

54
55 2. The all-virtual public meeting is simultaneously broadcast on the internet.

56
57 3. All members of the public body participating in the all-virtual public
58 meeting can be seen on video and can be heard on audio.

59
60 4. A phone number is provided to alert the public body if the video feed fails.
61 The public meeting should recess until the public access is restored.

62
63 5. Agendas, agenda materials, handouts and presentations are made available
64 to the public in electronic format for use in the meeting.

65
66 6. The public is afforded the opportunity to comment through electronic
67 means at those public meetings when public comment is customarily received. An
68 opportunity to submit written comment shall be created for all all-virtual public
69 meetings.

70
71 7. No more than two members of the public body are together in any one
72 remote location unless that remote location is open for the public to physically
73 access it.

74
75 8. Any closed session held pursuant to 2.2-3712 provides a means for the
76 public to rejoin the all-virtual public meeting before the body votes to certify the
77 closed session under 2.2-3712(D).

78
79 9. The public body does not convene an all-virtual public meeting more than
80 two times or 25 percent of the meetings held per calendar year rounded up to the
81 next whole number, whichever is greater.

82
83 E. Any public body that uses all-virtual public meetings as described in subsection D
84 or allows members to use remote participation in subsection C, must first adopt a
85 policy by ordinance or resolution that shall be applied strictly and uniformly,
86 without exception, to the entire membership and without regard to the identity of
87 the member requesting remote participation or the matters that will be considered
88 or voted on at the meeting. The policy shall:

a policy is required for both individual participation and all-virtual meetings

89
90 1. Describe the circumstances under which remote participation will be
91 allowed and the process the public body will use for requesting, approving or
92 denying requests to use remote participation;

93
94 2. Fix the number of times remote participation for personal matters or all-
95 virtual public meetings can be used per calendar year; and

96
97 3. Specify whether and how it applies to entities created by the public body
98 and if so, which ones.
99

100 **2.2-3708.3. Meetings held through electronic communication means during**
101 **declared emergencies. (*note: this is existing language that I've moved into its***
102 ***own section to separate it from e-meetings during NON-emergency times*)**
103

104 A. Any public body, or any joint meetings thereof, may meet by electronic
105 communication means without a quorum of the public body physically assembled at
106 one location when the Governor has declared a state of emergency in accordance
107 with § [44-146.17](#) or the locality in which the public body is located has declared a
108 local state of emergency pursuant to § [44-146.21](#), provided that (i) the catastrophic
109 nature of the declared emergency makes it impracticable or unsafe to assemble a
110 quorum in a single location and (ii) the purpose of the meeting is to provide for the
111 continuity of operations of the public body or the discharge of its lawful purposes,
112 duties, and responsibilities. The public body convening a meeting in accordance
113 with this subdivision shall:

114
115 1. Give public notice using the best available method given the nature of the
116 emergency, which notice shall be given contemporaneously with the notice
117 provided to members of the public body conducting the meeting;
118

119 2. Make arrangements for public access to such meeting through electronic
120 communication means, including videoconferencing if already used by the public
121 body;
122

123 3. Provide the public with the opportunity to comment at those meetings of the
124 public body when public comment is customarily received; and
125

126 4. Otherwise comply with the provisions of this chapter.
127

128 B. The nature of the emergency, the fact that the meeting was held by electronic
129 communication means, and the type of electronic communication means by which
130 the meeting was held shall be stated in the minutes.
131

132 5. The provisions of this subdivision 3 shall be applicable only for the duration of the
133 emergency declared pursuant to § [44-146.17](#) or [44-146.21](#).

NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

MEMORANDUM

TO: Chair Phyllis J. Randall and Members of the NVTA Governance and Personnel Committee

FROM: Michael Longhi, CFO

DATE: October 7, 2021

SUBJECT: CEO Compensation Analysis

1. **Purpose:** The Northern Virginia Transportation Authority (NVTA) Governance and Personnel Committee (GPC) recommended the acquisition of consulting services to redraft the then Executive Director, now Chief Executive Officer position description and develop a compensation analysis.
2. **Background/Discussion:**
 - a. After examining several options, the GPC directed staff in June 10, 2021 to make a best effort to develop and issue a Request for Proposal for an independent consultant to examine and make recommendations on the Chief Executive Officer (CEO) position description and perform a compensation analysis.
 - b. The Authority approved the contract award effective on July 14, 2021, with The Millennium Group International (TMGI).
 - c. The CEO Position Description phase of the engagement was completed last month and the draft position description is on the Authority's October 14, 2021 meeting agenda for consideration.
 - d. TMGI is completing the compensation analysis phase of the engagement. Due to the short timeline and need to coordinate and conduct numerous interviews the draft report is not ready for this meeting's dispatch.
 - e. Staff does expect to be able to have a draft report ready for a closed session presentation to the GPC on October 14, 2021.
3. **Next Steps:**
 - a. With any feedback from the GPC, the compensation analysis will be ready for presentation to the Authority in November.