

From: Bryant, Preston
Sent: Wednesday, June 23, 2010 4:12 PM
To: Commission Members
Subject: Streetcar issue - update #2

Fellow Commissioners -

This is my second update to you, following my promise to keep you informed as I and NCPC staff meet with District of Columbia officials (Council and Executive Branch) to discuss our need to protect the federal interest on the District's proposed streetcar system and overhead wires issues.

As you will recall, you agreed that we would engage parties on two fronts: first, to try to amend proposed District legislation on overhead wires so that we can protect federal interests and, second, to seek an MOA between NCPC and the District to set out a process that would allow us to protect federal interests.

We have been meeting principally with Council representatives on both fronts, and mostly with the legislation's chief sponsor Councilmember Wells. While Councilmember Wells and other representatives have been most willing to meet with us, and while they well understand our need to protect federal interests, there are sticking points as to NCPC's suggested amendments for our proposed role in the planning and approval process so that we can achieve a certain level of involvement and can properly defend any decisions we make in terms of the streetcar plan and overhead wires.

As some of you may be aware, the DC Council's Public Works and Transportation Subcommittee held a hearing on June 22 regarding the Transportation Infrastructure Amendment Act of 2010. NCPC staff attended the public hearing, though we did not speak. During the course of the hearing, I understand that the subject of Emergency Legislation was discussed as an alternative, which would allow for expedited passage of the proposed legislation.

As such, I am uncertain that NCPC should support the proposed legislation. And, as you recall in our last meeting, NCPC reserves the right to bring suit on this matter. Whether we exercise that option remains to be seen and would require further discussion by the Commission.

Last, as things appear to be unfolding where NCPC cannot support the District legislation, it is likely that we will not be able to positively opine on the District's Urban Circulator Grant funding application to the Federal Transit Administration or on future requests for federal funding from the FTA. The District's application to the FTA is for upwards of \$25 million. This is substantial funding.

Absent an agreement being struck between NCPC and the District on the proposed legislation, NCPC will likely notify the FTA of our legal opinion concerning overhead wires and other federal interests.

Should the FTA not grant this or future funding, it calls into question the District's ability to go forward with the streetcar project. Thus, a lot depends on NCPC getting comfortable with the proposed District legislation.

As events continue to unfold, I will keep you informed.

Many thanks.

Preston

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