

## NORTHERN VIRGINIA REGIONAL COMMISSION

### Minutes of the Commission Meeting Held Thursday, April 28, 2016

#### COMMISSIONERS

(The names of those members present are highlighted.)

Hon. Willie F. Bailey	<i>City of Alexandria</i>
<b>Hon. Tony R. Buffington</b>	<b>County of Loudoun</b>
Hon. Sharon Bulova	<i>County of Fairfax</i>
<b>Hon. David S. Butler</b>	<b>Town of Leesburg</b>
Hon. Peter Candland	<i>County of Prince William</i>
<b>Hon. John C. Cook</b>	<b>County of Fairfax</b>
<b>Hon. Laurie A. Dirocco</b>	<b>Town of Vienna</b>
Hon. Gerald M. Foreman II	<i>Town of Dumfries</i>
Hon. Kwasi Fraser	<i>Town of Purcellville</i>
<b>Hon. Libby Garvey</b>	<b>County of Arlington</b>
<b>Hon. Penelope A. Gross, NVRC Chairman</b>	<b>County of Fairfax</b>
Hon. Pat Herrity	<i>County of Fairfax</i>
Hon. Catherine Hudgins	<i>County of Fairfax</i>
<b>Hon. Frank Jones</b>	<b>City of Manassas Park</b>
<b>Hon. Jeffrey C. McKay</b>	<b>County of Fairfax</b>
<b>Hon. Lisa C. Merkel – alternate Vice Mayor Jennifer Baker</b>	<b>Town of Herndon</b>
<b>Hon. Martin E. Nohe</b>	<b>County of Prince William</b>
Hon. Harry J. Parrish II	<i>City of Manassas</i>
<b>Hon. Redella S. Pepper, NVRC Treasurer</b>	<b>City of Alexandria</b>
Hon. Frank J. Principi	<i>County of Prince William</i>
Hon. Phyllis J. Randall	<i>County of Loudoun</i>
Hon. R. Scott Silverthorne	<i>City of Fairfax</i>
Hon. Kathy L. Smith	<i>County of Fairfax</i>
<b>Hon. David Tarter</b>	<b>City of Falls Church</b>
<b>Hon. John Vihstadt</b>	<b>County of Arlington</b>

#### STAFF PRESENT

G. Mark Gibb	<i>Executive Director</i>
Linda M. Tenney	<i>Deputy Director</i>
Gina Kesselmann-Smith	<i>Executive Assistant</i>
Tim Agar	<i>Federal Grant Contract Monitor</i>
Normand Goulet	<i>Senior Environmental Planner, IT Manager</i>
Jeongmin Kim	<i>NVRC international intern</i>
Robert Lazaro	<i>Director, Regional Energy Planning</i>
Dale Medearis	<i>Senior Environmental Planner</i>
Michelle Simmons	<i>Director, Human Services</i>
Debbie Spiliotopoulos	<i>Senior Environmental Planner</i>
Peggy Tadej	<i>No. Va. Regional BRAC Coordinator</i>

#### OTHERS PRESENT

Bruce Bennett	<i>HMDL-HMRTCC</i>
Jody Bennett	<i>HMDL</i>
Katie Boyle	<i>Fairfax County Staff</i>
Tom Cranmer	<i>Fairfax County Taxpayers Alliance</i>
Mark Herring	<i>Attorney General of Virginia</i>
Jo Gae III	<i>Geoyong City Visitor</i>
Kevin McNulty	<i>Northern Virginia Chamber of Commerce</i>
Diana Meiser	<i>Prince William County Staff</i>
Sue Rowland	<i>NVRC – Legislative Liaison</i>
Jake Rubenstein	<i>Office of Virginia Attorney General</i>
Michael Vanderpool	<i>Vanderpool, Frostick &amp; Nishanian, P.C.</i>
Rob Whitfield	<i>Fairfax County Taxpayers Alliance</i>

- CALL TO ORDER                      Chairman Gross called the meeting to order at 7:35 p.m.
- PLEDGE OF ALLEGIANCE                      The Pledge of Allegiance was recited by all present.
- ROLL CALL                              The roll was called and all members present or absent were noted for the record.
- APPRECIATION                          Chairman Gross introduced the monthly Chairman's "Thank you Award" and honored one staff member at NVRC for this month: Debbie Spiliotopoulos.
- MINUTES                                Commissioner McKay moved approval of the Commission meeting minutes of March 31, 2016. The motion was seconded by Commissioner Pepper and carried unanimously.
- Commissioner DiRocco, Commissioner Butler and Commissioner Tarter abstained, as they had not attended the last Commission meeting.
- PRESENTATION 1                      Chairman Gross introduced former Commissioner Mark Herring, Virginia's Attorney General, who reported on prescription drug and heroin abuse.
- Attorney General Herring began his report by saying that one of the first things he did when he took office, was to go on his first statewide public safety tour in which three quarters of localities expressed concern with a rising tide of heroin and prescription drug overdose fatalities. This is how he learned that there is a heroin and prescription drug crisis that is affecting every corner of the Commonwealth.
- In 2014, heroin and prescription drug overdoses claimed the lives of 728 Virginians. That's more than car crashes. That number is shocking. Over the last five years, more than three thousand Virginians have lost their lives. This is a problem that is cutting across all social and demographic lines.
- After speaking with a lot of families who have lost a loved one after a fatal overdose, he has also learned that what is often described as a "heroin" epidemic, is really an opiod addiction epidemic. Something as common as a sports injury, car accident, or minor surgery can expose a person to opiods, leading to abuse, dependency, and in the worst cases, leading to the cheaper, more available, more potent, and deadlier heroin that can be found on the streets.
- The Centers for Disease Control estimates that 1 in 15 persons who take prescription painkillers for nonmedical purposes will try heroin within 10 years. So to properly address what's often called the "heroin epidemic," we must acknowledge that this is a "heroin **and** prescription drug abuse epidemic" that has its roots not in the streets, but in our medicine cabinets. And given the amount of opiods prescribed to older Virginians, we should begin accounting for their needs and risk factors as we work to address addiction. More Virginians age 55-64 died of heroin and prescription drug overdose than age 15-24. It's hard to imagine that someone could become dependent on a drug for the first time at that age, but that is the power of these drugs, and it is a reality.
- Attorney General Herring also commented on the strategy of his office to fight this problem. It is a multifaceted strategy that includes prosecutions and enforcement, as well as legislative solutions, prevention, and education.
- In the last year and a half his office has worked with local and federal partners to prosecute more than 28 cases against dealers and traffickers involving more than 95 kilograms of heroin with an estimated street value of more than \$19 million. That's

about 238,500 daily doses.

His office has also launched a number of prevention and education initiatives to make sure everyone-young people, parents, adults, even seniors-understand just how dangerous these drugs can be.

Attorney General Herring then mentioned a powerful documentary about the danger of heroin and prescription drugs and their impact on Virginia families and communities ([www.hardesthitva.com](http://www.hardesthitva.com)). This documentary, called "Heroin: The Hardest Hit", which was produced by the Office of Attorney General, features Virginians telling their own stories of addiction, overdose and recovery, and it features powerful testimony from parents who lost their children to an overdose, as well as law enforcement and healthcare professionals working to address the problem. From grieving parents, to folks in recovery who lost everything, to law enforcement agencies and public health professionals, this movie lets Virginians tell their stories and explain the impact of heroin and prescription drug addiction for themselves. The movie, which is available free of charge to schools, faith organizations, law enforcement, public health organizations, and others, is part of Attorney General Herring's efforts to educate Virginians on these dangerous drugs and prevent abuse and addiction.

Moreover, his office worked with the General Assembly in 2015 to enact three lifesaving overdose prevention laws with bipartisan support. One created a "good Samaritan" provision to encourage people witnessing an overdose to call 911 and get help. Another expanded the availability of naloxone, a life-saving overdose antidote, so that all law enforcement and first responders can carry it, and more families can get it without a prescription. His office also expanded access to the prescription monitoring program to make sure that probation officers can monitor their probationers to make sure they are not getting drugs they are not allowed to have.

Attorney General Herring emphasized that we have to make sure people understand how deadly prescription drugs can be when abused, and how quickly heroin and opioid addiction can take over your life. For those struggling with addiction, we want them to see that recovery is possible and there are a lot of resources and support if they're willing to take the first step and commit to getting well. We need everyone including parents, teachers, coaches, law enforcement officers, doctors, and elected officials working together to get this problem turned around.

*Questions and answers*

Chairman Gross asked what could be done to stimulate cooperation with the police investigation. Attorney General Herring said that stigma is a big problem and it is undermining cooperation. So being supportive is important. But there isn't an easy answer.

Commissioner McKay asked to what level the state police is involved in the enforcement or if it is up to the local police. Attorney General Herring confirmed there is cooperation between the local and state police.

Commissioner McKay also shared concerns regarding tobacco shops selling substances that are not marked as illegal but can become a pipeline for worse drugs. Attorney General Herring explained that it would be good to have officials talk to the tobacco shops directly and point out the consequences and how dangerous this is, so that they understand what this causes. Also, there is a new development, in which the health department is authorized to list a new kind of drug right away.

Commissioner Jones thanked Attorney General Herring for holding true what he promised during his Safety Tour.

Commissioner Butler asked if there will be a substitute for chronic pain management like medical marijuana. Attorney General Herring said that it is more up to the medical community to figure out how to address and control pain. The physicians need to make sure the patient is fully aware of the risks, questions need to be asked about the patient's history and follow ups are necessary. Drug take back centers are also very important, so that if you don't need pain killers anymore, you can return them.

Commissioner Buffington asked if there is an assessment on the drug recovery programs yet, which Attorney General Herring referred to the health department for further information.

## PRESENTATION 2

Chairman Gross welcomed and introduced Michael Vanderpool, an Attorney with Vanderpool, Frostick & Nishanian, P.C., who came to speak about Virginia's new proffer legislation.

On March 7, 2016, the Governor of Virginia signed into law a bill adopted by the Virginia General Assembly that will impact the permitted substance of proffered conditions throughout the Commonwealth of Virginia.

This new proffer legislation forbids a locality from placing "unreasonable" proffers on new developments and restricts what's known as conditional zoning. A proffer or proffered condition is a commitment from a landowner or developer to assist localities in financing capital facilities and infrastructure needed to serve new development, such as schools, parks, libraries and other facilities. Proffers can take the form of cash, land, or in-kind services.

A summary of the new proffer legislation by Vanderpool, Frostick & Nishanian, P.C. was distributed and included the following information:

- Jurisdictions cannot suggest, demand or accept *unreasonable proffers*.
- Applies to new residential development and mixed use projects with a residential component.
- The legislation applies to cases filed after July 1, 2016.
- There are limited exclusions.
- A new statutory definition of an "unreasonable proffer" – a proffer that does not address impacts specifically attributable to the new development.
- Limits offsite proffers to four specific public facilities – transportation, schools, safety and parks.
- Offsite proffers are not permitted if there is existing public facility capacity at the time of rezoning.
- The development must receive a direct and material benefit from the offsite proffer.
- The jurisdiction cannot accept an unreasonable proffer even if it is completely voluntary.
- If an unreasonable proffer is suggested, requested or required, there is a presumption it was the reason for the denial.
- The applicant is not required to object or provide notice in advance.
- The remedy is court ordered approval of the case and the applicant can recover attorneys' fees.
- Tips and Possible Solutions:
  - Don't adopt guidelines; rather, prepare an impact analysis
  - Disclaim authority for unreasonable proffers
  - Train staff and elected officials on the risks
  - Analyze levels of service – be granular
  - Adjust rezoning fees to reflect new reality
  - Be careful with your language
  - State the reasons for a denial unrelated to a lack of adequate proffers

*Questions and Answers* As this is a very new and unclear subject, a lot of questions were asked and Mr. Vanderpool answered as precisely as he was able to, but due to the uncertainty of the matter, being cautious is priority at this moment.

EXECUTIVE  
DIRECTOR'S  
REPORT

Printed copies of the report were distributed and Mr. Gibb went through the slides:

- Solarize Spring 2016
- Four Mile Run
- Workforce Roundtable – April 22
- Bike / Pedestrian Safety
- 2015 Solid Waste Report Released
- Dulles Matters II – Moving Forward Together – May 11, 2016 (7am-11:30am)
- NVRC Coastal Program
- Clean Water Partners

CHAIRMAN'S REPORT

Chairman Gross reported on the roundtable discussion on workforce that took place at the NVRC office location April 22, 2016 from 8:30 a.m. to Noon. It was a great success with great panelists.

Chairman Gross also mentioned the status of the NVRC management audit that was discussed at the Commission meeting December 10, 2015 and announced that one individual was selected to do this review and the Chairman asked for authorization from the Commission to sign the contract with this individual, Mr. Russ Linden. Commissioner Nohe moved approval of this request. Commissioner Pepper seconded and the motion was carried unanimously.

ADJOURNMENT

Chairman Gross adjourned the meeting at 9:38 p.m.

Respectfully submitted:

G. Mark Gibb  
Executive Director

Approved by:

Penelope Gross,  
Chairman