

District of Columbia Office of Planning



Office of the Director

July 1, 2010

Mr. L. Preston Bryant
Chairman
National Capital Planning Commission
401 9th Street, NW
North Lobby, Suite 500
Washington, DC 20004

Dear Chairman Bryant:

I am writing to voice my concern and disappointment with response to your June 25, 2010 letters to the Federal Transit Administration (FTA) and the Council of the District of Columbia regarding the District's streetcar program.

As you may know, I was very much looking forward to your leadership of the Commission and based on my own experience working with you (recently and when you were part of Governor Kaine's Administration), I had complete faith in your good will and candor. I particularly relied on your representation in your communication to the Commission in mid-June:

I am aware that each Commission member has his or her own thoughts over streetcars. Therefore, in discussions with other parties, we are being mindful not to suggest that the Commission has agreed to anything at all. We also are being very mindful to speak for no one on the Commission or for the Commission as a whole (other than to acknowledge that the Commission has agreed to seek legislation amendments and to a draft MOU to be developed). If the streetcar matter comes before the Commission, I want it to be properly before the Commission with no prior suggestions on how the Commission might act on it.

Thus, I was particularly disappointed and concerned about the letters that went out under your signature this past week.

Your letters, delivered on National Capital Planning Commission letterhead, certainly conveyed the inaccurate impression that the Commission had taken a position on the issue of overhead wires to power streetcars. Your request to deny up to \$25 million in federal funds for H Street/Benning Road streetcar segment does not reflect recent actions of the Commission. Moreover, your emailed updates to Commissioners did not accurately characterize the position the NCPC staff took in negotiations with the Council. Until last Friday, NCPC staff position with the Executive Branch of the District had been one of seeking a compromise on the H/Benning segment and focusing on corridors within the monumental core. However, NCPC staff negotiations with the Council sought a veto on virtually every aspect of streetcar planning and would expand NCPC's authority way beyond what its statute provides.



Items that impact the Mall and views of major monuments are generally agreed to be part of the federal interest, and the Council's initial legislation clearly offered those protections while the final emergency overhead wire legislation went even further. All new streetcar purchases will be required by law to operate for one mile without wires, and the Council will need to approve any new segments including a plan detailing the potential impacts on view corridors or historic districts. However, when the Council declined to expand NCPC's approval authorities beyond the powers granted by federal statute (which it cannot do in any event), the seemingly petty response was a letter to the FTA.

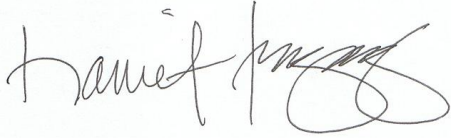
Your attempt to get the FTA to withhold funds from a streetcar segment that is clearly eligible for funding is particularly antagonistic. As you well know, the Benning Road streetcar extension, for which the District is seeking FTA funds, falls outside of the 1889 ban on overhead wires in the District. I truly cannot imagine what persuaded you to seek to interfere with the District's legitimate and critical investment in an area of the District in which the Commission has historically shown limited interest. Our pursuit of this line segment cannot come as any surprise to the Commission. The 2006 Comprehensive Plan for the National Capital includes at least two policies and eight actions relating to streetcar service in the District. Commission staff were deeply involved in drafting the Comprehensive Plan, which included specific actions regarding a District-wide streetcar network (Action T-2.1.A) such as a streetcar line along H Street/Benning Road (Action CH-1.1.D). The Commission had the opportunity at the time to comment on the streetcar and whether it had a negative impact on the interests or functions of the federal establishment in the National Capital.

I am further disappointed that you chose to cite an NCPC legal memo in your letter to Administrator Rogoff. As a Commission member, I have seen only two legal opinions, one from the District Office of the Attorney General and a separate opinion from attorney Andrea Ferster. Both find that the Council of the District of Columbia can amend the 1888 and 1889 bans on operating wire-powered streetcars in the District. Not only have I never seen the NCPC legal opinion, I am puzzled and concerned that you chose to send it to Peter Rogoff before allowing all Commission members to review a copy.

While I think that the appropriate action is a retraction of the letters to FTA Administrator Peter Rogoff and the Council of the District of Columbia, at a minimum, I believe many Commission members may feel obligated to write their own letters to the FTA Administrator to clarify that the letters of June 25th on NCPC letterhead do not reflect any action of the Commission but represent actions and the opinions of an individual on the Commission, albeit the Chairman.

I especially regret the loss of comity and the potential harm to the heretofore excellent working relationship between the District and the NCPC, but this is an issue of democracy and home rule and thus a matter of principle for the District. I hope we can endeavor to get beyond this disagreement and regain a state of mutual respect and cooperation, but the path forward will not be via one of us seeking to restrict the funding of the other.

Sincerely,

A handwritten signature in black ink, appearing to read "Harriet Tregoning". The signature is fluid and cursive, with a large, stylized flourish at the end.

Harriet Tregoning

cc: Mayor Adrian Fenty
All DC Councilmembers
NCPC Members
Congresswoman Eleanor Holmes Norton