



Ad Hoc Motorcoach Task Force

Meeting Minutes
5 February 2009
City Hall, Room 3008

Attendees

Task Force Members: Councilman Paul Smedberg, Rich Baier (Chair), Rob Aronson, Stephanie Brown, Bert Ely, Nick Gregory, Charlotte Hall, Poul Hertel, Hubert Herre, Greg Ogden, Cleveland Spruill (for Chief David Baker), Ellen Stanton, Tara Zimnick-Calico, Lorraine Lloyd (staff), Karen Callaham (staff) and Yon Lambert (staff).

Guests: Van Van Fleet, Christopher Spera (Assistant City Attorney), Charles and Sarita Schotta, Andrea Stowers, Julie Crenshaw-Van Fleet, Joanne Platt.

Below is a summary of the City of Alexandria's Ad Hoc Motorcoach Task Force meeting conducted on February 5, 2009.

1. Welcome & Introductions

Mr. Baier welcomed everyone to the Motorcoach Task Force meeting and reviewed the topics of the evening.

2. Review Minutes & Report Back from Constituent Groups

Mr. Aronson inquired about the language in number 3d of the January 12 minutes regarding "Designated Routes." After discussion and a show of hands, (12 yeas) the second to the last sentence in 3d was revised to say: *"The majority of the Task Force agreed that ultimately the system must disperse buses onto multiple streets and include caps for trip types as a long-term measure (1-2 years after data collection)."*

Mr. Hertel requested a change in 3e of the minutes to read *"Others said that the advisory group should not include staff."*

Mr. Aronson questioned numbers 5 and 7 of the Task Force short-term recommendations. Recommendation #5 refers to the new 30-minute tour bus parking locations on North and South Washington St. Recommendation #7 refers to the continuance of funding for the Police Department geared toward traffic management on the Unit Block of King St. Deputy Chief Cleveland Spruill clarified that the Department was allocated \$80,000 towards overtime pay for police in their efforts to manage motorcoach activity in Old Town.



Mr. Lambert provided copies of the CD of the second draft of the Ad Hoc Motorcoach Task Force recommendations to be discussed during the groups' next meeting on February 9th. The discussions during the February 9th meeting will produce a third and final draft of the recommendations. He asked that comments to the draft be e-mailed to him.

Chairman Rich Baier asked for a motion to vote on the minutes of January 12th. Stephanie Brown added she would like the record to reflect that hotels in the City of Alexandria contribute \$20 million to City revenues. A motion to approve the January 12th minutes was made and unanimously approved.

The Chairman asked for any comments on the notes of the January 26th Community Meeting held at Lyles Crouch. There was some discussion on the Old Dominion Boat Club request but no changes were made. The notes were unanimously approved.

The Task Force reviewed the notes of the Old Town Civic Association meeting held at the Lyceum. The Chairman reminded the group that this particular meeting was not an official Task Force meeting.

3. Long-Term Issues: Legal & Management Process

Interim City Attorney Christopher Spera informed the group that should City Council approve an effort to regulate tour buses, challenges should be anticipated based on federal and state laws. From the federal perspective, the primary concern is Title 49 of the Interstate Transportation Act and this refers exclusively to transportation trips - not touring.

Mr. Spera said the primary State code reference is 46.2-1304 and if Alexandria chooses to regulate motorcoaches it must either: (1) Ask the General Assembly to amend 46.2-1304 to include Alexandria among the list of cities that can regulate the industry and/or (2) ask for an exception through a charter amendment.

Charter Amendments

Mr. Spera told the group that the city charter is a grant of power from the General Assembly as to what a City can and cannot do. Certain requests can be granted to a City by the General Assembly to deviate or be exempt from provisions of the State laws that generally apply, which has been done previously. The City's Legislative Director will provide guidance on the feasibility and likelihood of adoption for a charter amendment with respect to motorcoach management at the appropriate time.



Provisions in the 1100 series of Title 46.2 address the limitations for jurisdictions to regulate what is different from what the State law requires. For example the City Code states that 40 feet is the maximum length and the State Code states the maximum length is 45 feet. The State Code reference nullifies the local regulation making it unenforceable without a charter amendment expressly granting Alexandria the authority to address this issue.

Due Process

Task Force members have questioned whether regulating motorcoaches is a due process argument. However, Mr. Spera said due process applies to property owners and this is not a situation where due process applies.

Zoning Ordinance/Commerce vs. Commercial Activity

The notion that the City's Zoning Ordinance is relevant to the tour buses driving on City streets is not historically what the zoning ordinance is used for. It is used to address individual property owner use.

Task Force members have also questioned whether the zoning ordinance may be used to address buses engaging in commercial activity in a residential zone. However, that is not what the City's Zoning Ordinance is intended to regulate. Extensive commercial activity occurs in residential neighborhoods (for example, FedEx is commerce). The fact that someone is making money on tour buses doesn't make the activity run afoul of the Zoning Ordinance. Thus, the Zoning Ordinance cannot regulate bus traffic. It must be through "police power" and exercised in a way that satisfies State code and Federal interstate commerce laws.

Recommendation

The City Attorney believes a charter amendment may provide the best tool for the City to craft the specific language it desires.

A change to §46.2-1304 would be important but the existing language is relatively broad. It says, "may regulate," which is generic and can have both positive and negative implications. (In answer to a Task Force question, the City Attorney reports zero cases of litigation regarding §46.2-1304.) It is important to consider that many of the cities that do regulate tour buses also provide benefits for the buses such as hospitality centers, ample parking, lounges for the drivers, manned 24-hour phone numbers, etc... They have given the industry incentives which may make it less likely to challenge the regulations.



Alexandria must be careful to avoid the appearance that we are only imposing limitations and no benefits. Regulation should be one part of the City's overall business approach for motorcoach transportation.

Federal Law: Transportation vs. Tour Trips.

Mr. Spera said that whatever regulatory scheme the City adopts must be defensible. It must be done in a way that is cognizant of the fact that even if the City is given dispensation from the State through inclusion of the City in 46.2-1304 or by a charter amendment, there is still the issue of Federal Law. If an individual carrier is unhappy with the City's regulation, the motorcoach industry may address this through lobbying. Mr. Spera said that a regulatory scheme must address the Federal law head on and avoid regulating transportation trips.

Mr. Spera's interpretation is that a transportation trip has a particular destination in the City with a final destination that involves loading/unloading/parking in the right-of-way or on private property.

For instance, if City tries to impose a fee on tour buses going to hotels, we will likely run afoul of the Federal prohibition against local regulation of bus transportation. If on the other hand the City is trying to regulate buses that putter around looking at historic places in the City - that may be different. The motorcoach industry will have a difficult time supporting the argument that this type of trip constitutes interstate commerce. That is a locally-based activity on local streets. Congestion, pollution, and the number of people in the public right-of-way are traditionally issues the police power is used to regulate.

Proposed Management Framework Based on Legal Background

Upon conclusion of Mr. Spera's presentation, Mr. Lambert introduced two charts: (1) A proposed timeline for acquiring regulatory authority and (2) A proposed management framework for different motorcoach trip types. The charts are intended to be added to the recommendations report after discussion and Task Force approval.

The timeline is on the following page:



2009

March-June: Pending City Council approval of Task Force short-term recommendations, count motorcoaches.

March-June: Request that Alexandria touring companies revise existing routes used for step-on sightseeing tours.

March-June: Revise/reprint existing brochure and update existing website.

November: Initial DRAFT of on-line registration/managed dispersal system available for review.

2010:

March: Debut fee-based on-line registration/managed dispersal system.

September: Review 1st season of system & routes with Task Force.

September: Draft city proposal for the 2011 General Assembly to amend §46.2-1304 and/or the City Charter.

2011

March-June: Implement touring and/or parking fees

September: If §46.2-1304 is successfully revised and/or the charter is amended to allow the City regulate the route, size, length, etc. of motorcoaches on certain streets, then consider potential City Code changes to impose such restrictions.

Thus, by spring of 2012, the City may be able to legally manage the four motorcoach trip types. If the City is not successful with a proposed charter amendment or amendment to 46.2-1304, the City can try to gain regulatory authority in subsequent years.

The Task Force also reviewed a slide reviewing management strategies for the different trip types (or “buckets”) and raised the following the following general concerns:

- Task Force members expressed concern that the proposed framework was penalizing businesses east of Washington Street, especially those that “do the right thing” by managing buses via an informal registration system
- Task Force members discussed whether a “bucket” should be added to the framework to address motorcoaches with reservations

Ultimately, the Task Force chose to merely change the chart to change Bucket #1 to “Reservations” and Bucket #2 to “Non-Reservations.”



4. Long-Term Issues: Composition of Workgroup/Advisory Committee

The Task Force discussed its short-term recommendation #1 regarding the appointment of a workgroup or advisory/committee to oversee future motorcoach management operations. The Task Force also discussed whether to add additional representation.

Several Task Force members said that a new body based on the Charleston, SC tourism commission was unnecessary. There was concern that a new group would need to re-learn the issues addressed by the Task Force. Moreover, there was concern that if it added additional representatives the Task Force would become too large and/or unbalanced.

Mr. Baier suggested that the Task Force re-word recommendation #1 to reflect that the Task Force issues need continuity and that the Task Force itself will be re-convened in the future. In the interim, Task Force members will be provided with updates on staff progress.

5. Public & Task Force Q&A

The last meeting of the Task Force is scheduled for Monday, February 9. The purpose of the February 9 meeting is to review the Task Force comments on the second draft of the short-term recommendations.

The report containing the short-term recommendations will be submitted to City Council on February 24. The Task Force was reminded that City Council initially receives reports for the record and then schedules a public hearing.

Julie Crenshaw-Van Fleet requested that the City Attorney's office review state code sections 15-2283, 15-2200 and 46.2-1304.

There being no comments, the Task Force adjourned.