

**Mayor Fraim's remarks presented to the VA Gen. Assembly Joint Subcommittee on  
Public-Private Partnerships meeting to study Port privatization.  
September 24, 2009  
Old Dominion University**

**Slide 1:**

Mayor Fraim Remarks to Subcommittee:

Mr. Chairman, members of the subcommittee...thank you for your invitation to expand upon my previous testimony on August 12th. As you know, a series of discussion points were suggested for today's meeting. Some of them, quite frankly are above my pay grade. So, again the focus of my presentation will be on the topic most relevant to the City of Norfolk and the other port host cities...and that is the proposed tax exemption of privately operated port operations. But before I get started, I want to take the opportunity to once more make it clear that Norfolk is proud to be the home to the Port of Virginia's largest and busiest facility, Norfolk International Terminals. For more than 300 years, international trade has defined who we are as a city and as a region. The Port of Virginia has been developed and nurtured by Virginians for generations...And I believe we owe it to those generations and to our future generations to be good stewards of the Port.

Recently, we have been advised that the VPA, VIT, and APM Terminals have been in discussions since December 2008 under a Federal Maritime Commission Discussion Agreement. And although we have been assured that these discussions are not part of the overall PPTA process or the bid review currently underway, I think such a development gives greater reason for pause and careful examination. Whatever the outcome, we must keep the long-range interests of the Commonwealth and the Port at heart, regardless of how attractive short-term proposals may be.

**Slide 2:**

Specific to today's discussion, some time ago, three companies, CenterPoint, Carrix and the Carlyle Group submitted proposals to take over the operation of the Port's facilities in Norfolk, Portsmouth, Newport News and the Inland Port in Front Royal Virginia.

After reviewing each of the three submitted conceptual proposals, it is our understanding that each proposal will be evaluated in accordance with the Virginia Public Private Transportation Act of 1995, as amended. It is also our understanding that the Virginia Port Authority would remain an asset of the Commonwealth and continue to be exempted from real property, leasehold, and business property taxation under the provisions set forth in the Virginia Code...

However, each of the three proposers has creatively structured their proposals to capitalize and enjoy VPA's tax-exempt status.

**Slide 3:**

This would be precedent-setting and contrary to all our experience.

As I discussed with the Committee during the last meeting, when the U.S. Navy leases base property to a McDonald's restaurant, in Virginia, this becomes a taxable event and local taxes are collected on the value of the McDonald's lease in the form of a lease-hold tax. Local business taxes are also collected such as meals tax, machinery and tools tax - even though it is situated on land that is owned by the federal government.

Just as an example, the City of Norfolk collected \$1.6 million dollars in calendar year 08 in business related taxes from private businesses operating on Norfolk Naval Base.

A private port operator, proposing to lease State-owned property and conduct business as a private entity, should be treated no differently.

**Slide 4:**

In the 1999 Joint Legislative Audit and Review Commission of the Virginia General Assembly Report titled *Review of the Impact of State-Owned Ports and Local Governments*.

I quote: "Port host cities in Virginia have a disproportionate cost to share compared against the actual economic benefits received."

In fact, under the current structure, the Port actually costs host communities more than they are compensated for in terms of lost tax revenue, additional police, fire, rescue services, added street maintenance and transportation infrastructure impacts on our communities, not counting the truck traffic congestion, noise and pollution that effect our citizens' quality of life on a daily basis.

**Slide 5:**

As a result of the JLARC Study findings, the 2000 Virginia General Assembly amended the Virginia Code governing the calculation of a Port Service Fee. This legislation outlined a new Payment in Lieu of Taxes (PILOT) methodology for determining what the Commonwealth and the VPA should contribute annually to VPA host localities.

**Slide 6:**

Unfortunately, the PILOT program has not been fully funded to date.

Since becoming law more than nine years ago, Norfolk has had to calculate and collect an annual Port service charge using the same inequitable formula it used prior to the 2000 PILOT legislation.

This consistent underfunding and tax exemption of port operations has placed an ever increasing fiscal burden on communities that are already classified by the Commonwealth as recently as March 2009 “fiscally stressed.”

**Slide 7:**

In FY '09, the City of Norfolk received a combined total of \$1.1 million for the City's support and provision of fire-rescue and roadway maintenance costs attributed to port operations. \$485 thousand dollars came from the VPA in the form of a service charge and \$610 thousand dollars from the Commonwealth as Norfolk's proportional share of Port Highway Funds.

**Slide 8:**

In estimating the City of Norfolk's Service Charge to be received from the Virginia Port Authority – we made a variety of assumptions based on the best publicly available information.

The 2000 Legislation references “Total Tonnage” as a key component of the calculation.

Looking at the chart, the first bar shown indicates the amount Norfolk receives from the VPA under the currently applied statutory formula for calculating VPA's Service Charge, pursuant to §58.1 – 3403, paragraphs B and C.

**Slide 9:**

Utilizing the Total Cargo Tonnage as reported in VPA's 2008 Comprehensive Annual Financial Report a second bar is shown to reflect what the City would have received by applying the provisions of §58.1 – 3403, paragraphs D and E to calculate an annual Service Charge. As you can see this would result in approximately \$11 million annually.

**Slide 10:**

Based upon contact from VPA yesterday afternoon, we have also included a third bar shown on the chart reflecting an estimated Service Charge of approximately

\$4.5 million annually, again pursuant to §58.1 – 3403, paragraphs D and E, but based upon “General Cargo Tonnage” rather than “Total Tonnage.”

This revised value is based upon advice from VPA that the meaning of “Total Tonnage” as provided for by statute is more accurately reflected utilizing their reported “General Cargo Tonnage”. That definition deserves more discussion.

But, based on either, it is clear that the City of Norfolk receives a fraction of the potential revenue under existing law, or as would be available to the City if these facilities were fully taxable.

I now would ask that we consider what can be seen looking at this chart as a whole.

Whether we are talking about five times or ten times the amount of annual port service fee revenue currently received. . . this continued underfunding represents a gross negative impact on Norfolk as a port host city.

As you can see, just from FY 2006 to present, Norfolk will receive a combined revenue shortage of over \$54 million. I am sure I don’t have to tell you what \$54 million would mean to one of the Commonwealth’s most fiscally stressed communities.

**Slide 11:**

The City understands that these are tough economic times for the region, state, and country.

The Commonwealth could potentially gain a significant short-term financial benefit if it were to accept one of the three competing proposals.

However such a decision requires careful evaluation of each proposal, including the adequacy of compensation for host communities.

Specific to the PPTA Process, representatives from the port host communities should be appointed to the PPTA Independent Review Panel, as is typically accomplished in other PPTA process.

As the three conceptual proposals are considered, either the proposers and/or the Commonwealth must identify how they would address the inadequacy of the currently employed PILOT methodology.

**Slide 12:**

In closing, whether the VPA operations remain a state function or ultimately are privatized, any successful model must provide equitable compensation for host jurisdictions as a primary component of their overall business plan.