

**Submission to the
TransLink Governance Review Panel**



**Canadian Union of Public Employees
BC Division (CUPE B.C.)**

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Introduction

The Canadian Union of Public Employees (CUPE) is the largest trade union in both British Columbia and Canada. CUPE B.C. represents more than 70,000 workers from all over the province who are employed in a variety of sectors, particularly local government, schools, universities, colleges, social services and community health, amongst others.

CUPE Local 7000 represents employees of Skytrain and Southern Rail.

CUPE Local 4500 represents the Professional Engineers and Supervisors at Coast Mountain Bus Co. Those CUPE Members responsible for maintenance planning, maintenance, communications and service delivery of Conventional and Community Shuttle services throughout the 2000 sq kms of the Lower Mainland. The members of Locals 7000 and 4500 who work for TransLink have a very direct interest in this review of TransLink governance, as any changes to the legal status or structure of their employer will directly affect their employment relationships.

Other CUPE members throughout the Lower Mainland also have a direct stake in this review. Besides the fact that all our members depend daily on the regional transportation system for their own movement between and amongst communities, thousands of CUPE members are directly employed by municipalities throughout the region. To the extent that TransLink increases property taxes, affects the level of funding available for general municipal operations or changes settlement patterns in communities, CUPE's municipal membership deals with the results.

Just as important, all of our CUPE members who live in the Lower Mainland are citizens and taxpayers who have a right to be represented in the decision making process that will affect their taxes they pay and the services they receive.

On behalf of the many British Columbians who are members of CUPE, we appreciate this opportunity to provide perspectives on TransLink governance.

Governance Principles

Decisions on TransLink's governance structure should be underpinned by some basic principles. We recommend that the following principles guide your Review and your report:

1. Democratic accountability to electors:

TransLink is much more than a series of transportation operating companies. The Board of TransLink has a major impact on all residents of the Lower Mainland. The TransLink Board makes decisions that affect: property, fuel, parking and other taxes for citizens throughout the region; the ability of citizens to

access their homes, their work and their communities; transit fare levels; growth and settlement patterns; residential and business property values; GVRD debt levels; the quantity and quality of transit services; toll levels; economic development; air pollution; and greenhouse gas emissions, as well as much more.

For all those reasons, it is crucial that the Board of this entity be democratically accountable to regional electors. Through TransLink's short life, citizens of the Lower Mainland have sometimes criticised TransLink for being insufficiently accountable to electors. Rarely, if ever, have citizens called for it to be less accountable. The Province should be very careful not to impose an appointed Authority model or other corporate structure that reduces accountability to electors.

2. No taxation without representation:

With the concurrence of the GVRD and support from individual municipalities, TransLink has the power to levy property taxes, parking taxes, hydro charges, tolls, transit fares, and vehicle levies. It is also the recipient of significant portions of the provincial fuel tax.

A basic principle of democratic governance is "no taxation without representation". Since TransLink has the power to levy taxes and charges, regional taxpayers must have an ability to meaningfully influence its governance. This means that the majority of the Board must always be made up of elected representatives.

3. Transparency:

Because TransLink's decisions have such an impact on the daily lives of so many people, it is important that the general public have full access to all TransLink information, that citizens have regular opportunities to make representations to TransLink Directors, that all TransLink meetings are convened in full public view and that concerns about "commercial confidentiality" not be allowed to trump full public access to decision-making about public dollars. TransLink needs more transparency, not the closed-door decision-making that would follow the creation of an appointed, corporate authority.

4. Regional control of regional issues:

It will be regrettable if this governance review results in a reassertion of provincial control over regional transportation issues that most directly affect residents of the Lower Mainland. Instead, governance of regional issues should be done at the regional level, which is most appropriately close to local citizens. While it makes sense for the Province to maintain ownership and control of highways that link the region to other parts of B.C., the rest of Canada, and to the U.S., the shift

to regional control of regional transportation policy that came with the creation of TransLink was an important improvement. For all the difficulties TransLink has faced, few have suggested that the Lower Mainland transportation operated better or in a more integrated way when the Province controlled it. It is crucial that there be a direct and integrated institutional link between the growth management policies of the GVRD and the transportation agency which has such an impact on whether those policies can be successfully implemented.

5. Public Delivery of Public Services:

CUPE is very concerned about many aspects of the costly trend to multi-decade contracts for privatized operation of public infrastructure services. These so-called “public/private partnerships” are often more expensive than regular public provision of transportation operations, while at the same time reducing accountability and efficiency.

Recent examples include more than half a billion dollars in unanticipated cost increases for the Canada Line and Golden Ears projects. These in turn have created serious debt pressures for the GVRD and a reduction in the credit rating of the Municipal Finance Authority.

CUPE supports public delivery of public services such as highway and transit operations. TransLink’s structure should be designed to ensure that Directors remain fully accountable to the public for all aspects of the provision of public services. Structures should not be put in place that provide incentives for the privatisation or contracting out of transportation operations.

6. Fair and stable employment relationships:

TransLink is a significant employer in the Lower Mainland. TransLink and its subsidiaries such as Coast Mountain Bus, Skytrain, West Coast Express and others all need to be structured so as to ensure fair, consistent, balanced and stable employment relationships with all employees and the unions that represent them. Instability, inconsistency or organizational turmoil with regard to revised employment relationships will reduce quality of service to the public. It is important that all TransLink collective agreements be fully honoured in every respect.

7. Build on previously agreed principles:

Prior to TransLink being established in the late ‘90s, the Province and GVRD agreed to a consensus on the principles, which would guide its governance structure and evolution. As changes are contemplated as a consequence of this current review, we urge that the Province build on the principles that were previously agreed to, rather than completely contradicting them or starting over from scratch.

Those prior principles were:

- integrated decision-making
- adequate and appropriate funding
- good governance
- good management
- treatment of existing employees

Those principles remain sound. Changes to TransLink's structure and governance should be incremental and should help the organisation to evolve. The previous guiding principles should be the starting point for any changes.

Why this Review of TransLink Governance?

CUPE is concerned about the rationales for this Review that have been advanced by the provincial government so far. To be frank, we are apprehensive that provincial decisions have already been made and that the Review is intended as a means to facilitate an end the Province has already decided upon, rather than as a full and open review of all options. We hope we are incorrect that the Province intends either that municipal governance of the regional transportation agency will be replaced with private, corporate control or that the Province will directly control regional transportation again – or both.

A number of the reasons that have been put forward publicly for fundamental change of TransLink's structure are quite weak.

In an article in the March 9th edition of The Vancouver Sun ('TransLink lacks skills to succeed, Falcon says'), Minister Falcon is quoted as saying that TransLink has become 'parochial', was responsible for a political 'fiasco' that nearly stopped the Richmond-Airport-Vancouver rapid transit line, and that it lacks the expertise to deal with multi-billion dollar projects such as the Gateway. With regard to the 'fiasco' of the Canada Line decision, he said 'There was too much of an emphasis on what I call parochialism, or people focusing on issues that were specific to their particular municipal backyard.'

These comments followed similar public comments in spring of 2004, after the Board of TransLink deliberated carefully and exercised its best judgement in twice voting down the proposed RAV public/private partnership. The response from Minister Falcon and the business community was swift and angry. Minister Falcon advanced a suggestion that, if TransLink did not want provincial money that had been allocated for the RAV, then the provincial government would spend that money twinning the Port Mann Bridge and widening Highway 1 instead. At the time, many involved in municipal government interpreted this as punishment or a threat. After TransLink voted twice against the RAV P3, the B.C. Chamber of Commerce issued a news release calling for the Province to take TransLink over. John Winters of the Chamber echoed Minister Falcon's accusation that TransLink Board members acted parochially. This was followed in December of

2004 by a report from the provincial B.C. Progress Board (Transportation as an Economic Growth Engine: Challenges, Opportunities and Policy Suggestions), which called for an Authority model for TransLink, in which the Province would appoint the majority of Directors and a minority would be elected representatives.

Minister Falcon's views about TransLink were reiterated in a recent interview with the Georgia Straight newspaper, published April 13, 2006 ("TransLink review defended"). In that article, the Minister said the debate over RAV had been conducted in a "circus sort of atmosphere" and that "you've got people opposing it (RAV) for reasons that are not even remotely connected to the merits of the project. And people opposing it for issues that are entirely parochial and backyard politics in nature..."

The Minister's arguments for radical change have been expressed in a very emotional tone. Clearly, the provincial Minister did not appreciate the thorough due diligence and debate conducted by TransLink Directors. He remains angry that Directors took their responsibilities seriously. Their crime seems to have been to fully debate a multi-billion dollar commitment that will affect the regional transportation system for decades to come, and to have the temerity to twice vote against a proposal from the provincial government, before finally approving it on a third vote.

Good public policy is never informed by this sort of anger and strong emotion. We urge the Review Committee to discount emotional arguments and to do its work in a dispassionate manner.

We also suggest the Minister's specific critiques are not borne out by the facts:

- Parochialism and backyard politics: the Minister has not cited the specific examples of parochialism he has in mind, but the actual voting patterns of TransLink Directors during the RAV debate do not support the accusation. Several Directors from communities other than Richmond or Vancouver (such as Surrey, North Vancouver and Langley) voted in favour of the RAV project. Certainly, Directors from Vancouver and Richmond voted in favour, but would it be fair to say that was a parochial decision on their part given that the RAV will travel through their communities? Other Directors from communities such as Burnaby, New Westminster and Pitt Meadows voted against the project, but never based on an argument that there was inadequate rapid transit investment in their communities. Finally, there was considerable local concern from the northeast sector (Coquitlam, Port Coquitlam, Port Moody) that previous provincial agreements to provide at least \$650 million in funding for northeast rapid transit appeared to be slipping away in light of RAV. The Directors from those communities and others rightly insisted that provincial commitments to the northeast sector be honoured, but this was as much a concern

about the relative priorities of the regional transportation and growth management plans, as it was a concern for local northeast sector issues.

The Minister's accusation of parochialism with regard to the RAV debate is unfair and inconsistent with the facts.

- Circus atmosphere and a fiasco: when Directors voted against the RAV the first two times, they expressed fundamental and appropriate concerns about cost pressures, ridership, growth strategy objectives, public accountability, the conclusions of financial feasibility and value analysis reports and competing priorities. All those arguments directly related to the project. How is it that this sort of due diligence and fiduciary concern for prudent expenditure of public funds is somehow a "circus" or a "fiasco"? In fact, whether one agrees with the RAV or not, there is little doubt the extensive public debate about it has improved the accountability and oversight of the project that was eventually approved. The Minister's accusations in this regard are also without foundation and can be fairly characterised as rhetorical insults, rather than reasoned debate.
- Directors lack the expertise to make multi-billion dollar decisions: TransLink Directors are elected Mayors and councillors. In their local communities, they regularly make decisions on matters worth millions or hundreds of millions of dollars. They do so based on information and objective advice provided by management staff. In the same way, at the TransLink level, Directors receive objective information and advice from TransLink management staff and then use their best judgement to weigh the decisions they make about the regional transportation system. This is the regular, normal and well-tested method for democratic decision-making about public expenditures in Canada.

The accusation that locally elected municipal officials lack the expertise to make multi-billion dollar decisions begs the question of why elected Members of the Legislative Assembly and provincial Ministers are any more qualified to make such decisions? At the provincial level, Ministers come from a variety of backgrounds. Some may have previous experience in their assigned portfolios, but most do not. They make their decisions based on information and objective advice from public servants. Just like municipal officials. Just like TransLink Directors.

Of course, provincial MLAs and Ministers are no more qualified to make multi-billion dollar decisions than are locally elected municipal officials. In both cases, what qualifies them is the endorsement of electors.

Let's be frank. What the Minister really means when he accuses local officials of lacking qualifications is that he sometimes disagrees with the decisions those local officials make. If the TransLink Directors had simply

agreed with the Minister and not voted against the RAV proposal, the Minister would never have accused them of lacking qualifications.

But if local autonomy and local control of decision-making are to mean anything, then regional entities like TransLink must have the right and ability to make decisions with which the provincial or federal governments sometimes disagree.

Terms of Reference – Recommendations

The appropriate division of responsibility and control between the Province and TransLink for transportation matters in Greater Vancouver

The current division of responsibilities set out in the GVTA Act are appropriate. Control of transportation planning, priority projects, capital spending and operation of the transit and regional road systems should remain at the regional level.

With regard to the regional Major Road Network, it is important to bear in mind that the Province transferred ownership of secondary roads a number of years ago. Unless the Province wishes to take back responsibility for these roads, they must continue to be operated and managed by local government. Similarly, if the Province wishes to replace TransLink Directors with provincial appointees, then the Province will be taking on greater legal and financial responsibility for the transit system in the region. Citizens of the Lower Mainland – especially those who use the transit system regularly – will insist on accountability for decisions about that system. The Province cannot assert more authority over the transit system unless it is willing to take on more responsibility and accountability for it, including financial responsibility.

Appropriately, the Province does continue to own and operate the provincial highway system in the region. This means there must be close cooperation and coordination between the Province and the GVTA. The Province can facilitate greater coordination in this regard by filling the three currently vacant seats on the TransLink Board. Provincial representatives should be appointed to these vacancies as soon as possible.

Because the GVRD is responsible for land use planning and growth management, it is essential that transportation planning and transportation operations remain a regional responsibility.

The Province may wish to consider options for more formal input into the transportation plans of TransLink and the GVRD, especially given its responsibility for the provincial highway system. This input should be provided in a spirit of collegiality and cooperation to promote decisions that are mutually beneficial for both the Province and the region.

The appropriate size, composition and appointment processes for the Board of Directors of TransLink

The GVRD Board should continue to be responsible for appointing representatives to the TransLink Board.

Given that TransLink not only levies taxes, but also makes important decisions about public services, its Board should consist only of elected officials. Non-elected individuals should not be appointed. As soon as possible, the Province should appoint elected M.L.A.s to fill the three assigned provincial seats on the Board.

Seats should be divided by sub-region and should reflect both population and concentration of TransLink services. There should be broad discussion of the implications of weighted voting.

The length of Board appointments should be increased to two or three years, as opposed to one, to encourage greater continuity.

The appropriate responsibilities, authorities and powers of the GVRD in relation to TransLink under the GVTA Act

The current division of responsibilities between TransLink and the GVRD are generally appropriate.

Given that transportation decisions have a profound impact on land use and growth management, the GVRD should have continued responsibility to approve the long-term transportation plans of TransLink.

Given that TransLink's financial investments have a major impact on the credit rating of the Municipal Finance Authority and direct implications for local property tax rates, it is appropriate for the GVRD to have continued financial oversight of TransLink. It will be a major error if this responsibility is transferred instead to an Authority with a Board of non-elected appointees.

There may be merit in even closer integration of the GVRD and TransLink than exists today. One option is to assign direct transportation planning responsibility to the GVRD, while leaving operational decisions to TransLink.

The appropriate responsibilities, authorities and powers of TransLink to institute revenue measures for funding service delivery and capital projects

The Lower Mainland continues to deal with rapid population growth and ever-increasing demands for quality transportation services. Funding must be adequate to meet this demand.

It is reasonable for TransLink to receive assured core funding from both the federal and provincial governments. This core funding is important for the quality of life of residents; air quality, the economy and sustainable land use. Both the Province and the Government of Canada should consider increased allocations of fuel tax revenue to help fund these important priorities. Funding should be indexed to keep up with inflation.

The Province should not attempt to impose “public/private partnerships” or other expensive privatization measures on the region, especially given the widespread experience of increasing costs, reduced accountability and complex procurement delays, which are so common to P3s. Public services, must be delivered by public agencies.

The unfortunate experience of the vehicle levy veto should be avoided in future. The Review Committee should recommend options that reduce provincial barriers to TransLink raising the revenues it needs to do its work. Political accountability for revenue measures (whether popular or unpopular) should rest clearly with locally elected officials.

How to ensure the Province will have effective input into, and oversight of, TransLink activities and decisions as they affect provincial interests

The provincial government owns and operates the provincial highway system within and adjacent to the Lower Mainland. This gives the Province considerable power to assert its transportation interests. Indeed, many in local communities feel there should be greater ability for local government to protect community interests in light of provincial highway decisions.

Currently, TransLink is also dependent on the Province before many of its revenue measures can be implemented. This is a further powerful lever for the provincial government.

It is not clear what provincial interests are not being served by the current division of responsibilities. The Province has an obligation to articulate the provincial interests it is concerned about and then to work with local governments to sort out those interests.

If the Province wishes to provide greater input into decisions that affect its interests, it should:

- respond to the 2002 recommendations of the Auditor-General
- acknowledge and respond to the 2005 recommendations on governance forwarded to the Premier and the Minister of Transportation by the GVRD Board

- respond to the recommendations of the 2002/2003 GVRD-GVTA Task Force
- appoint provincial representatives to the three vacant provincial positions on the TransLink Board
- consider joint advisory committees for review of matters of mutual interest
- organize regular meetings at least twice a year between the Minister of Transportation and representatives from the TransLink Board
- provide formal input into the development of TransLink's long-term strategic plans and then provide firm commitments to the priorities set out in those plans
- provide reciprocal opportunities for meaningful regional input into provincial transportation projects that affect the interests of local communities.

We urge the Review Panel to make recommendations that help to foster respectful and efficient working relationships between the provincial government, local governments, the GVRD and TransLink. The general principles set out at the beginning of this submission should be the starting point for the improvement of these relationships.

Thank you for the opportunity to present our views.

Respectfully submitted,

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