COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Pierce R. Homer
Chairman

1401 East Broad Street - Policy Division - CTB Section - #1106
Richmond, Virginia 23219

(804) 786-1830
Fax: (804) 225-4700

Agenda item # 10

RESOLUTION
OF THE
COMMONWEALTH TRANSPORTATION BOARD

October 16, 2008

MOTION

Made By: Mr. Keen **Seconded By: Mr. White**

Action: Motion Carried, Unanimously

Title: Adoption of Model Public Participation Guidelines for the Enactment of Regulations

WHEREAS, § 2.2-4007.02 of the *Code of Virginia* requires state agencies to develop, adopt, and use public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations under the Administrative Process Act (APA); and

WHEREAS, the 2008 General Assembly noted that a lack of consistency in the scope, comprehensiveness, and level of detail of state agency public participation guidelines impeded the ability of the public to participate fully and readily in the formulation of regulations; and

WHEREAS, Chapters 321 and 575 of the Acts of Assembly of 2008 requires the Department of Planning and Budget (DPB), in consultation with the Office of the Attorney General (OAG), to develop Model Public Participation Guidelines meeting the requirements of § 2.2-4007.02 of the *Code of Virginia*; and

WHEREAS, before December 1, 2008 agencies must either adopt the Model Public Participation Guidelines issued by DPB, or, if they need to make significant changes to the guidelines, to file a fast-track regulatory action with DPB pursuant to § 2.2-4012.1 of the *Code of Virginia*; and

WHEREAS, adopting the Model Public Participation Guidelines as provided by DPB and the OAG will be exempt from the operation of the APA as delineated in Article 2 (§2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the *Code of Virginia*; and

WHEREAS, the Virginia Department of Transportation (VDOT) previously promulgated Public Participation Guidelines (24 VAC 30-10) to facilitate administration of its regulations under the APA; and

WHEREAS, the Department of Rail and Public Transportation (DRPT) currently has no regulations subject to the APA, but public participation guidelines are recommended for DRPT in the event that regulations are adopted in the future; and

WHEREAS, VDOT and DRPT recommend that the Model Public Participation Guidelines developed by DPB, in consultation with the OAG, be adopted by the Board as presented for each agency, and that the current VDOT Public Participation Guidelines be repealed.

NOW THEREFORE BE IT RESOLVED, that the Commonwealth Transportation Board hereby approves the new Public Participation Guidelines as presented for each agency, and repeals the current VDOT Public Participation Guidelines previously approved by the Commonwealth Transportation Board on May 21, 1992.

BE IT FURTHER RESOLVED, that the Public Participation Guidelines, as adopted herein for each agency, shall apply to the promulgation of regulations for which a notice of intended regulatory action is filed in accordance with § 2.2-4007.01 of the *Code of Virginia* on or after January 1, 2009.

###