



**Testimony of The Committee of 100 on the Federal City  
June 22, 2010**

**PUBLIC OVERSIGHT HEARING ON  
TRANSPORTATION INFRASTRUCTURE AMENDMENT ACT 2010**

Chairman Graham and Members of the Transportation Committee:

I am George Clark, Chairman of the Committee of 100 on the Federal City. Meg Maguire, Chair of the Transportation Subcommittee also is representing the Committee of 100. We are here to testify on Councilmember Wells' legislation to allow streetcars in DC with overhead wires.

But first we want to ask you to

**Show Us the Money**

**Who will pay to build and operate this \$1.5 billion system?**

This is not a sarcastic question with intent to annoy. It is the critical question that has been lost amid the campaign for more public transit to remove cars from streets, and the controversy over introducing overhead wires into historic neighborhoods and along scenic boulevards of the City: *Who Will Pay?*

We urge Council to tackle the subject of the cost and financing of the entire system before appropriating any further funds and before enacting this legislation to overturn the 1889 federal law. Council should require real answers to fundamental questions about cost, location of routes that implement articulated and accepted goals, adjacent land use, maintenance locations and infrastructure, operational framework, and financing.

The buck stops with you. Council must look beyond the "cool factor" of streetcars as one means of addressing the city's transit gaps, to the timing and the financial resources the City can commit to this system over its lifetime.

Moving forward on the basis of piecemeal advice from DDOT will come back to haunt you and your constituents. DDOT is asking you to approve streetcar segments throughout the city without real analysis of the routes they have proposed, without discussion of the pros and cons of various ways to move forward, and without a plan for how the system will be financed and sustained over time. DDOT will get the kudos while you get the invoices. And when you can't dig further into the general revenues or

rainy day fund, residents will be stunned that you approved a program with no idea of how to pay for it except to pass the cost onto residents and small business owners within three blocks of each line as DDOT plans -- a special Benefits Assessment District (BAD).

We are curious about how you think DDOT's taxation plan will work -- they don't really say. It is one thing to tax business owners on the incremental profit directly attributable to streetcar access as in Portland. It's another thing entirely to tax residents whose only financial gain may be higher property values without additional income to pay either higher property taxes or a special streetcar tax. No one wants to push residents out of the city, or displace small businesses in favor of national chains, but that will become an unanticipated consequence of streetcars if this system is not carefully planned and soundly financed.

DDOT has presented you with a lot of assumptions about costs. Have you verified this information? The City is looking at over \$1.5 billion in capital costs, with only 20-25% from the federal government and more than \$73 million in annual operating costs. Are you comfortable with these figures? Where is the 75-80% coming from?

How the City will pay for this system is relevant to Council's consideration of the Wells bill unless you just want to authorize, finance, and operate a 2+ mile segment that starts abruptly and has no real end point. We look to Council to lay out the facts, study the options, provide the details and, above all else, be up front about who will be paying for this system before you commit another dime beyond the \$47 million you have just appropriated.

There is no better example of the need for planning than the Union Station terminus -- or more accurately, no end -- to the H Street line. Even if the City condemns the one third of the tunnel in private hands (at what cost -- \$50 million?), it cannot condemn the two thirds owned by Amtrak. Have you considered the June 1, 2010 five page letter from Amtrak raising a long series of detailed objections on engineering (particularly the fast track build then design proposal), parking and loading, safety and security -- if you've been there you'll see what they mean -- as well as operations and utilities? Simply put, DDOT can't do what they want you to spend money for.

### **The Wells bill**

In this context, the Wells bill seems like a tight wire act. Nonetheless, the bill is before us, and we would like to offer our comments and suggest some substitute language to make it better.

We take no position on whether Council has the authority to overturn the federal law of 1889 under the Home Rule Act. That will be for others to decide.

We do object to three significant omissions from the Wells bill:

First, while the bill requires the Mayor to submit a “comprehensive city-wide plan,” it does not detail the requirements of an acceptable plan. And while the bill would require Council approval, virtually all power to decide on system issues would be in the hands of the Mayor who would decide what to share with the Council and what would constitute a “plan.” That plan might -- or might not -- include a financing structure or an appropriate governance and management framework; and it might -- or might not -- incorporate careful land use analysis. Given the sketchy information that DDOT has been providing, it should be assumed that a more vigorous and well-documented plan is not likely unless Council requires it.

Second, there is no requirement for public involvement beyond “public notice and comment” on the plan. Will the public be engaged in a significant collaboration throughout the process or just comment at the end, without a real voice in decisions?

Third, based on legal analysis for the Committee of 100 by Hogan Lovells (Hogan & Hartson), our attorneys, the City is already in violation of several laws including compliance with requirements under the DC Environmental Protection Act, the federal National Environmental Policy Act, the DC Historic Preservation Act, and the National Historic Preservation Act. The city should redress the non-compliance issues and remove whatever litigation exposure the city currently has or would have in the future if DDOT continues to ignore these legal requirements. If this bill authorized building a freeway, we and many other groups would be demanding an EIS. Why should streetcars get a pass?

To address these three omissions, the Committee of 100 has prepared two documents: 1) a substitute bill listing the elements of the required plan, establishing an oversight commission to report to Council on planning and development of the system, and explicitly requiring compliance with applicable laws; and 2) a document titled “Streetcar Planning Requirements” detailing what we recommend should be in an adequate plan, which we distributed to the Council last week. We ask that both be inserted in the record as a part of our testimony.

Thank you. We will be glad to answer any questions.

Substitute for Councilmember Wells'  
"Transportation Infrastructure Amendment Act of 2010"  
Prepared by Committee of 100 on the Federal City  
June 22, 2010

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To prohibit the installation of any additional telephone, electric lighting, or other wires over any of the streets or avenues of the City of Washington, except as may be authorized by the Mayor in compliance with applicable laws of the United States and the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

Sec. 1. Short title

This act may be cited as the "Transportation Infrastructure Amendment Act of 2010".

Sec. 2. Aerial wires

(a) Except as provided in subsection (b) of this section, the Mayor of the District of Columbia shall not permit or authorize any additional telephone, electric lighting or other wires to be erected or maintained on or over any of the streets or avenues of the City of Washington (as defined in D.C. Official Code §1-107) beyond those that existed on or before July 18, 1888.

(b) Notwithstanding the prohibition contained in subsection (a) of this section, the Mayor is authorized to install aerial wires for the H Street/Benning Road streetcar transit line, which extends from 3<sup>rd</sup> and H Sts., NE to Oklahoma Ave., NE upon certification by the Mayor to the Council that such installation is compliant with the applicable laws of the United States and the District of Columbia including, but not

limited to, the District of Columbia Environmental Policy Act, the District of Columbia Historic Landmark and Historic District Protection Act, the National Capital Planning Act, the National Environmental Policy Act, and the National Historic Preservation Act.

(c) Prior to the expenditure of funds for the expansion of streetcar transit beyond the H Street/Benning Road line the Mayor shall develop a comprehensive city-wide plan for said expansion, subject to public notice and comment, and subsequently submitted for Council approval by resolution or deemed approved if the Council fails to take any action to approve or disapprove within 45 business days after submission. The Plan shall include, but not be limited to, a detailed assessment of the selection criteria and the proposed streetcar routes with adjustments to meet specific area planning goals; the capital and operating costs, by segment, for the streetcar system; funding sources for construction and operations; the location of maintenance facilities; an assessment of all available streetcar technology for application in the District of Columbia; location of the power supply system including substation/recharging locations; an analysis of adverse impacts on the view corridors of the federal monumental core and other affected scenic corridors and boulevards throughout the city, accompanied by visual simulations in key locations of streetcars with and without wires; an analysis of relevant environmental and historic preservation issues connected with expansion of the streetcar system; a detailed plan for proposed land acquisition including easements, rights-of-way and anticipated condemnation of private property; a time line for construction of each segment; and a time line for the process of complying with all applicable District and federal laws. The Plan shall be in compliance with the Comprehensive Plan for the National Capital and all applicable laws of the United States and the District of Columbia, including, but not limited to, the District of Columbia Environmental Policy Act, the District of Columbia Historic Landmark and Historic District Protection Act, the National Capital Planning Act, the National Environmental Policy Act, and the National Historic Preservation Act. To fulfill legal requirements for environmental review, the Department of Transportation shall prepare an Environmental Impact Statement for the entire streetcar system.

(d) The Council shall appoint a nine member Streetcar Advisory Task Force composed of individuals with expertise in planning, engineering, environmental studies, historic preservation; and representatives of affected community groups. The Task

Force shall monitor, review, comment and report to Council on all aspects of planning, including:

1. The goal of creating the nation's best streetcar system;
2. Collaboration with affected communities in all aspects of planning;
3. Compliance with environmental and historic preservation review requirements in applicable laws;
4. Land use planning; and
5. Funding strategies including capturing land value escalation due to the system.

The Task Force will advise the Council, reporting regularly on progress and goals. The Task Force shall consult with the Department of Transportation, the Office of Planning, and the public to review and comment on the tasks to be performed. The Task Force members will serve without compensation except that they will be provided standard cost reimbursement as applicable.

(e) By January 1, 2014, the Mayor shall submit to Council a report, with public comment included, on the feasibility of converting to non-aerial wiring where aerial wiring has been installed.

(f) The installation of aerial wires authorized by this section and the construction of any and all additional streetcar lines and routes must comply with:

- (A.) Section 602(a)(6) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(a)(6));
- (B.) An Act to regulate the height of buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code § 6-601.01 *et seq.*); and
- (C.) All requirements for consultation with the appropriate federal agencies and authorities, including, but not limited to, the Architect of the Capitol, the National Park Service, the National Capital Planning Commission, and the U.S. Secret Service.

Sec. 3. Fiscal impact statement

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective Date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat.813; D.C. Official Code Sec. § 1-206.02(c)(1)), and publication in the District of Columbia Register.