

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON TRANSPORTATION

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March 13, 2012
Start: 3:30 p.m.
Recess: 4:00 p.m.

HELD AT: Council Chambers
City Hall

B E F O R E:
JAMES VACCA
Chairperson

COUNCIL MEMBERS:
Gale A. Brewer
Daniel R. Garodnick
David G. Greenfield
G. Oliver Koppell
Jessica S. Lappin
Darlene Mealy
Ydanis A. Rodriguez
Deborah L. Rose
James G. Van Bramer
Vincent M. Ignizio
Peter A. Koo
Eric A. Ulrich

A P P E A R A N C E S (CONTINUED)

Jerrold Nadler

U.S. Representative for New York's 28th District

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2 CHAIRPERSON VACCA: Okay, can we
3 all please take our seats, and silence your cell
4 phones please. If they're on, please put them on
5 vibrate. I think many of you know we're honored
6 today to have Congressman Jerrold Nadler with us
7 and we thank him for his attendance and his
8 leadership on the issue that we're going to
9 discuss. We're going to start on time as a
10 courtesy to him, and I'm sure other members will
11 arrive. It is March 13th, 3:30 p.m. I'm James
12 Vacca. I am the chairman of the New York City
13 Council Transportation Committee, and we're here
14 today to discuss an issue that's central to not
15 just transportation in New York City, but critical
16 to our economy as well—funding for mass transit.
17 Resolution 1225 introduced by Council Member Rob
18 Jackson calls on the House of Representatives to
19 defeat H.R. 7, the American Energy and
20 Infrastructure Jobs Act. I want to thank Council
21 Member Jackson for introducing the resolution and
22 thank the Speaker for her support as well. In
23 Washington, the House of Representatives and the
24 Senate are currently working on a reauthorization
25 of the Federal Transportation Bill. This multi-

1 billion dollar piece of legislation funds
2 infrastructure projects across the country—roads,
3 bridges, and transit. Mass transit is especially
4 funded by the highway trust fund, which is
5 financed by the federal gas tax. 80% of highway
6 trust fund dollars go to road and bridge repairs,
7 and another 20% is earmarked for mass transit.

8 It's important to remember that this funding
9 formula was established in a bipartisan fashion in
10 1982 by a democratic Congress and supported by
11 President Ronald Regan.
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13 The MTA receives more than a
14 billion dollars every year in capital funding from
15 the highway trust fund and those dollars are
16 building the 2nd Avenue subway, east side access
17 and the new Fulton Street hub. Those dollars pay
18 for new subway cars, track repair and signal
19 upgrades. They provide a major source of revenue
20 for the MTA. Without those dollars, our transit
21 system would suffer and many of our key projects
22 would not become a reality. Fares are already too
23 high for many working class New Yorkers. Can you
24 imagine what would happen if we had such a
25 significant gap from funding we receive via the

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2 federal government? It's incomprehensible to me
3 that anyone interested in creating jobs and
4 spurring economic growth would starve New York
5 City of its mass transit system. Our system
6 carries more than 5 million people a day. These
7 people are going to work. They're going to a
8 show. They're going to the store. Students going
9 to school. Wherever they go and whatever they do,
10 they are creating economic activity. I want to
11 thank Congressman Nadler for his work in
12 spearheading the defeat of this disastrous idea.
13 I also want to thank the other members of the New
14 York City congressional delegation who spoke
15 loudly against the proposal. The need for transit
16 funding is shared by New Yorkers from across the
17 political spectrum. It's an idea that unites
18 democrats and republicans here in New York. We
19 all know how absolutely critical transit funding
20 is to the city and to the region, and it's obvious
21 to us that this funding must continue; therefore,
22 we have a resolution here proposed before us today
23 that would set forth the position of this Council
24 in a sense of urgency giving Washington the unity
25 that our city has in insisting that the federal

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2 government commitment not be reduced. So I want
3 to thank my colleagues. I know I'm joined to the
4 right by Council Member Darlene Mealy and I'd like
5 to call upon Congressman Jerrold Nadler.

6 CONGRESSMAN JERROLD NADLER: Thank
7 you very much, Chairman Vacca, for inviting me to
8 testify to the Council's Transportation Committee
9 on H.R. 7, the so-called American Energy and
10 Infrastructure Jobs Act. Historically, the
11 Transportation Committee in the House has been a
12 bastion of bipartisanship. Bills we developed—we
13 were supposed to pass a major transportation bill
14 every six years, and these bills are normally
15 developed by the democratic and republican staff
16 working together and would usually agree on the
17 broad outlines of what they would want to get done
18 with reauthorization. H.R. 7, however, was unlike
19 any other prior reauthorization. It was developed
20 on a purely partisan basis. The democratic staff
21 and members were only told what was in the bill--
22 in an 860 odd page bill--24 hours before it was
23 introduced and a couple of days before we had to
24 vote on it in Committee. It was deliberately
25 designed so that no democrat could support the

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2 bill. Ray LaHood, transportation secretary and a
3 former republican member of Congress in Illinois,
4 called it the worst transportation bill he had
5 ever seen, and certainly, it is the worst I've
6 ever seen. H.R. 7 makes drastic changes to the
7 highway--there are many, many different things that
8 are terrible with it, but I'll mention just a
9 couple--makes drastic changes to the highway trust
10 fund, eliminating the federally guaranteed funding
11 for mass transit that we have relied on for 30
12 years. Since 1983 when the Service Transportation
13 Assistance Act was signed into law, 20% of the
14 proceeds of the gasoline tax have gone to the mass
15 transit account within the highway trust fund,
16 which has funded mass transit. This bill would
17 eliminate the mass transit account, and instead of
18 20% of the highway trust fund going to mass
19 transit and a few other cents to some other
20 smaller programs like bicycles and other things,
21 it would all go to fund highways--100% of the
22 process of the gasoline tax would go to fund the
23 highways. Mass transit would be funded from an
24 alternative account, which would be funded by
25 annual appropriations. For the first four years

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2 there would be a lump sum of \$40 billion—although,
3 it was unclear where the funding for that is
4 coming from, but after that, it would be subject
5 to annual appropriations.

6 If the last year has taught us
7 anything, it's that the politics of annual
8 appropriations can lead to dysfunction and
9 inaction. Such a reality would make it difficult,
10 if not impossible for transit agencies to develop
11 long-term capital plans. It would leave the
12 future of the program in doubt, in effect, by
13 removing federally guaranteed funding, it would
14 result in virtual construction and service freeze,
15 the effects of which would be felt by riders,
16 businesses, contractors, manufacturers and
17 suppliers around the country. It would reverse
18 what was deliberately done 30 years ago to give
19 mass transit funding a reliable source of funding;
20 a dedicated source of funding that could be
21 depended on besides the annual political travails
22 of the appropriations process. This is a
23 draconian and unacceptable blow to transit
24 funding, which would result in disastrous changes
25 for millions of people around the country. There

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2 is no reason to make a drastic change in how we
3 finance public transportation, and no reason for
4 this change has been given. That is why I
5 introduced an amendment to the bill that would
6 restore guaranteed dedicated funding for mass
7 transit and the highway trust fund. It was a
8 bipartisan amendment co-sponsored by Mr.
9 LaTourette of Ohio and by a number of other
10 republican members. It was because of this
11 amendment, which was very difficult for
12 republicans from urban and suburban areas to vote
13 against, it was going to pass. They couldn't
14 figure out how to block it on the floor, so the
15 Speaker removed the bill—removed the provision
16 from the bill and then removed the entire bill
17 from consideration. In fact, the bill was removed
18 from consideration, but it has come back three
19 times, and it has gone away three times. The
20 republicans have been trying to figure out how to
21 pass a bill, and they cannot get at the moment—
22 they cannot figure out how to get 218 republican
23 votes. They put in so many poison pill [phonetic]
24 provisions that they can't possibly get any
25 democratic votes, but they have a large number of

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2 members who will simply not vote for a bill that
3 provides \$260 billion for transportation over six
4 years—five years. They just don't want to spend
5 the money.

6 Let me just mention a couple of
7 other provisions to illustrate how radical this
8 bill is. There's one—which hasn't gotten
9 publicity—unlike the mass transit provision that -
10 - gotten quite a bit of publicity—there's a
11 provision of the bill that says that if any
12 environmental impact statement takes more than 270
13 days, the project—whatever it is—is automatically
14 deemed to have no significant impact. Now you
15 might think that well, this tells the EPA to hurry
16 up with the EISs, but the sponsoring agency is the
17 one who does the EIS—the sponsoring agency of the
18 project, so if you're the sponsoring agency of a
19 project and you have a project which you know is a
20 disaster economically, all you have to do is slow
21 up the EIS for 271 days, and you're home free.
22 It's assumed—it's deemed to have no environmental
23 consequences, so it completely eliminates all
24 environmental law basically. There's another
25 absurd provision among many that says that if the

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2 president deems any project economically critical
3 to the country—and he can deem any project—“all
4 laws of the United States are waived.” All laws of
5 the United States are waived—occupation safety and
6 health laws, environmental laws, - - the concrete,
7 so the thing falls down, anything. That’s absurd
8 obviously, but this is in the bill. There are a
9 lot of other provisions in the bill that are
10 equally absurd, and that we’re just finding, but
11 at the moment it’s very unclear where this bill is
12 because they can’t get the votes for it, and it
13 may very well be—let me mention one other thing
14 about that they don’t have in the bill that’s very
15 crucial, and then I’ll just sum up. In the bill
16 five years ago, in the 2005 bill, we had a
17 provision for projects of national and regional
18 significance. They omit this from their bill, and
19 - - submitted an amendment to restore projects of
20 national and regional significance, which was
21 established in the safety - - bill [phonetic],
22 also as a bipartisan amendment. When we wrote the
23 safety - - bill in 2006, Congress recognized that
24 the traditional transportation funding programs
25 were insufficient to finance many major

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2 infrastructure projects because the funding
3 formulas are distributed to each state, it is
4 difficult to get multiple states to coordinate
5 their budgets and to make the financial
6 commitments necessary to build large regional
7 projects, even if they are important for economic
8 growth. In some cases, the projects are simply
9 too expensive to fit into a state's transportation
10 plan that is already stretched too thin to
11 maintain the system, let alone greatly expand it.
12 In some cases, critical projects can involve many
13 different agencies and modes of transportation,
14 and such projects may not be easily eligible for
15 funding under the Core Highway Programs, yet many
16 of these projects are critical to the function of
17 the economy. We have major freight bottlenecks in
18 this country and no real way to address them.
19 H.R. 7 is totally dependent on the states, which
20 have to prioritize their own needs and their
21 capital plans are stretched too thin. That's how
22 we get into this problem in the first place. It's
23 why we created the projects of national and
24 regional significance account in the last bill to
25 jumpstart major projects of national and regional

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2 significance to give a special section of funding
3 for major projects, but this was removed from this
4 year's bill. As the American Association of Port
5 Authorities wrote a letter to the Transportation
6 Committee of the House, "many freight needs are
7 national in focus so providing all funding to the
8 states without a special program for major
9 projects will continue to leave a void for the
10 national and regional projects." We must have a
11 dedicated program for major projects, in
12 particular for freight at the national level and
13 that's why I offered a bipartisan amendment to
14 restore the projects of national and regional
15 significance account to this bill as it was
16 included in the existing safety - - bill.

17 As I said at this time, it appears
18 quite possible that the House will not be moving
19 forward because they can't figure out how to get
20 the votes and that we may simply proceed with
21 Senate reauthorization. That is actually a good
22 thing. The Senate bill is basically a lean and
23 clean two-year bill, which funds transportation at
24 roughly current levels, about \$109 billion for two
25 years—that's \$54 billion a year. The virtue is

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2 that it doesn't drastically cut the amounts as
3 H.R. & does, and it doesn't do a lot of other
4 damage, but it's just a holding pattern for two
5 years. It continues funding at roughly the
6 current levels only for two years. States are
7 inhibited from planning beyond two years, but at
8 least it's two years and it does allow us to wait
9 for different congress when we may hopefully be
10 under a better, more rational control, and can do
11 something better for the system. So I appreciate
12 this resolution to oppose H.R. 7 just in case it
13 should be resurrected and things are so unstable
14 that I wouldn't rule anything out at this point,
15 but it does not seem as if it will pass, but no
16 guarantees. We are off this week. We come back
17 next week. We have two weeks and on March 31st the
18 current highway and transit authorization expires,
19 and if we haven't figured out what to do, we will
20 have to pass a short term extension for a few
21 weeks past the Easter recess until we pass a major
22 bill. It's good that you're authoring this
23 resolution. I thank you for your initiative and
24 for your attention.

25 CHAIRPERSON VACCA: Thank you very

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2 much, Congressman Nadler. We've been joined by my
3 colleagues Council Member Gale Brewer, Council
4 Member Oliver Koppell, and Council Member Peter
5 Koo, and Council Member Robert Jackson, who is the
6 sponsor of the resolution. I'd like to call upon
7 Council Member Jackson.

8 COUNCIL MEMBER JACKSON: Thank you,
9 Chair Vacca. First, Congressman Nadler, let me
10 thank you for your leadership not only your
11 general leadership as a member of Congress
12 representing our great city, but also more
13 specifically about mass transit, about the
14 advocacy for a tunnel into New York City, and
15 obviously, you have the vision and foresight with
16 respect to our great city, which all of us—many of
17 us call it the greatest city in the world, and
18 which Mayor Bloomberg has said had over 50 million
19 visitors last year, and if in fact we are to be
20 the greatest city in the world, the transportation
21 infrastructure must meet the needs, and as you
22 know, Mr. Chair and everyone else knows that we
23 are expected to increase our population in New
24 York City by a million people. In fact, the way
25 to get around is going to be by public

1 transportation and not by the highways, even
2 though there are cars and there are highways that
3 surround our city as you know and many of your
4 colleagues that do not live in the city, they
5 depend on highways to get around. The most
6 convenient way to get around in New York City is
7 mass transit, so we thank you for being the leader
8 on this particular matter on all of our behalf,
9 not only your congressional district, but the
10 entire city of New York. In fact, our Speaker has
11 said that it would be a tragedy to kill the
12 federal transit funding that kept our mass transit
13 system moving. She thanks you for your leadership
14 and your testimony before the Council's
15 Transportation Committee today on this particular
16 matter. I say with respect to that is that our
17 city cannot afford to be shortchanged when it
18 comes to sustaining its infrastructure and in 20
19 years as I indicated, the city's population is
20 projected to grow—balloon up to 9.5 million, so if
21 federal dollars are not appropriated, targeted to
22 maintain and build our transit system, then as the
23 greatest city in the world, we will be unable to
24 meet the demands of our own population. H.R. 7
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2 will have a domino effect leading to the collapse
3 of the city, state and national economies, and I
4 call on Congress to rise in defense of all New
5 Yorkers and defeat H.R. 7 by supporting your bill.
6 We thank you, Mr. Chair, thank you for holding
7 this hearing in order to bring light to how
8 important this is to New York City, and as you
9 said, Mr. Chair, this is about not only building
10 our infrastructure, but it's jobs and that's the
11 number one issue that everyone talks about is
12 jobs. So on behalf of all the members of this
13 City Council, we thank you for your leadership.
14 Thank you, Mr. Chair.

15 CHAIRPERSON VACCA: Thank you,
16 Council Member Jackson. Council Member Koppell
17 would like to say several words, and I'll call
18 upon the Council Member.

19 COUNCIL MEMBER KOPPELL: Thank you,
20 Chair. I first want to welcome my longtime
21 friend, Congressman Nadler and appreciate his
22 taking time to come to the City Council.
23 Naturally, I think all of us firmly support defeat
24 of this unbelievable frankly proposal, which it's
25 hard to believe that the republicans are seriously

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2 advancing. They apparently did. Since you are
3 here, Congressman, one quick question, there's
4 been a lot of publicity about the Senate is going
5 to restore the full deduction of transportation
6 commuter costs, where the law apparently reduced
7 the amount that people could pay and not be taxed
8 on those expenses. Is the House going to follow
9 suit on that?

10 CONGRESSMAN NADLER: There is
11 resistance in the House, but if, in fact what
12 happens, Councilman, is that the House simply
13 takes the Senate bill, which in the end, I think
14 is more likely than any other course of action.
15 If that's in the Senate bill, it would go through.

16 COUNCIL MEMBER KOPPELL: While not
17 totally relevant to transportation subsidy, it
18 does, however, I think encourage people to use
19 mass transit.

20 CONGRESSMAN NADLER: Oh sure.

21 COUNCIL MEMBER KOPPELL: It helps
22 pay the bill for commuters, so I think it's an
23 important part of the whole picture.

24 CONGRESSMAN NADLER: It's a very
25 important part of the whole picture and Senator

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2 Schumer has been particularly active in trying to
3 get it back. We do give the entire amount as a
4 parking subsidy to people who bring in their cars.
5 There's no reason—it would be counterproductive as
6 a matter of public policy to have a greater level
7 of subsidy for people who drive their cars in than
8 people who take mass transit. It just doesn't
9 make sense.

10 COUNCIL MEMBER KOPPELL: Thank you
11 again.

12 CONGRESSMAN NADLER: Thank you.

13 CHAIRPERSON VACCA: We've been
14 joined by Council Member Garodnick. I'd like to
15 call upon Council Member Koo.

16 COUNCIL MEMBER KOO: [off mic] Thank
17 you for coming. [off mic] We read in the news
18 that the Obama Administration wants to build high
19 speed trains in California, in Florida and most of
20 the states, they don't want it. Why don't we use
21 the money for mass transit and just use a little
22 bit of it for New York?

23 CONGRESSMAN NADLER: Some states
24 don't want the high speed rail. The Obama
25 Administration is particularly interested in high

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2 speed rail as another step in our infrastructure.
3 We have—I forget the exact amount, but over a
4 billion dollars was refused by Governor Scott in
5 Florida and it was reprogrammed about 700 million
6 of that, I think, came to New York. Yes. For
7 intercity transit being spent on the New York
8 Albany line and Schenectady area, on an
9 interchange near Sunnyside Yard—

10 COUNCIL MEMBER KOO: [Interposing]

11 And also in California, they're spending billions
12 of dollars there.

13 CONGRESSMAN NADLER: They have a
14 \$90 billion project. They haven't funded it yet,
15 but the fact is that high speed rail—the
16 Administration bill that it submitted, which is
17 not being considered at this point in Congress,
18 was a \$450 billion bill. Notice the amounts.
19 \$260 billion is what the House wanted for five
20 years. They wanted \$450 billion for highways and
21 mass transit plus \$50 billion for high speed rail,
22 500 billion total. The high speed rail is a
23 particular focus of the Administration, and I
24 think there's a lot of merit to that, but they've
25 also put a lot of money into their proposals for

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2 mass transit. But mass transit is not—intercity
3 rail is generally considered a separate subject
4 for mass transit, but they're obviously related.

5 COUNCIL MEMBER KOO: So how can we
6 help you to pass the H.R. 7? Besides pass this
7 resolution?

8 CONGRESSMAN NADLER: Well, we don't
9 want to pass H.R. 7 obviously. We have to make
10 sure that all the people that we talk to in
11 Congress will not vote for a bill, and right now
12 they don't have the votes. They will not vote for
13 a bill that will shortchange the money overall--
14 \$260 billion over five years is too little, that
15 will not destroy the mass transit guarantee that
16 we've had for 30 years, that will not do a lot of
17 the other things that this bill would do like the
18 destroy SEMAC [phonetic] and other things I didn't
19 even bother mentioning. And at the same time,
20 probably the best thing that we can hope for out
21 of this Congress is that the House will take the
22 Senate bill. You want to talk to your Senators
23 about getting a few extra things in the Senate
24 bill. The Senate bill is basically a pretty lean
25 two-year stop gap bill that may very well have the

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2 Schumer's amendment on the mass transit subsidy,
3 but if we can get something like the Senate bill
4 through the House and Senate, we'll be doing about
5 as best as can be expected given the current
6 politics.

7 COUNCIL MEMBER KOO: Okay. Thank
8 you.

9 CONGRESSMAN NADLER: And that will
10 take us into the next Congress where hopefully
11 things will be better.

12 CHAIRPERSON VACCA: Thank you,
13 Council Member Koo. We've been joined by Council
14 Member Lappin, and I'll now call upon Council
15 Member Mealy.

16 COUNCIL MEMBER MEALY: I want to
17 thank you, Congressman, and thank our colleague,
18 Robert Jackson, for putting this forward, but the
19 Senate is expected to vote on the new
20 transportation authorization bill I guess soon-
21 very soon. Please give me your thoughts on this
22 new bill that they will be voting on.

23 CONGRESSMAN NADLER: Well, it's an
24 adequate bill is the best you can say for the
25 moment. It's not a great bill, but you know, when

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2 someone has a knife over your head and you escape
3 it, that's good. It's a bill that will keep
4 funding at roughly current levels for two years.
5 We'd be much better off with a six0-year bill if
6 we get a six-year bill with good funding levels
7 with decent provisions in it, but it's unlikely
8 right now. So if the Senate bill, which is
9 basically as I said \$54 billion a year, 109
10 billion for two years, without any obnoxious
11 provisions that I'm aware of, and especially if
12 you end up with Chuck's amendment and a few other
13 things in it. If they pass it and if we can get
14 that through the House, given the current
15 political situation we will be doing about as well
16 as we could be expected—as well as we could. We
17 will have dodged a bullet.

18 COUNCIL MEMBER MEALY: Okay. How
19 many Congress people—to your knowledge, are there
20 any members of Congress was on the old bill?

21 CONGRESSMAN NADLER: Oh, there were
22 plenty of members.

23 COUNCIL MEMBER MEALY: From New
24 York?

25 CONGRESSMAN NADLER: Well, it never

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2 came to a vote in the House. There were a couple
3 of New Yorkers who voted for it from upstate on
4 the Committee. There was one. I'm not going to
5 mention his name--

6 COUNCIL MEMBER MEALY: [Interposing]
7 Please don't.

8 CONGRESSMAN NADLER: --because he
9 came to me afterwards and said he would have voted
10 for my amendment.

11 COUNCIL MEMBER MEALY: If he would
12 have known about it.

13 CONGRESSMAN NADLER: No, that he
14 would when it came up on the floor, which it never
15 did. I think he thought it better--or learned more
16 about it, but I'm not aware of any New Yorkers off
17 the top of my head who were co-sponsors of the
18 bill.

19 COUNCIL MEMBER MEALY: My last
20 question, part of the transportation bill in
21 Congress is to divert funds to private work taking
22 it from public workers. What is the plan to stop
23 this effect with this bill?

24 CONGRESSMAN NADLER: Well, there
25 are all kinds of obnoxious provisions in the House

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2 bill. Our plan is don't pass the House bill. The
3 Senate bill, to my knowledge, doesn't do anything
4 about that at all. As I said, if we can take the
5 Senate bill, pass it, live to fight another day in
6 the next Congress, that's the best plan we have
7 right now.

8 COUNCIL MEMBER MEALY: Okay. Thank
9 you so much, Chair Vacca.

10 CHAIRPERSON VACCA: Thank you,
11 Council Member. Thank you. We've been joined by
12 Council Member Jimmy Van Bramer. Our next
13 question is from Council Member Brewer?

14 COUNCIL MEMBER BREWER: Thank you
15 very much. I think—my question is, if two years
16 passes, do you think that we will have more
17 support? Obviously if we have a different Congress
18 that would help, but even the democrats sometimes
19 don't love mass transit as we do. So just two
20 quick questions from your amazing knowledge—one
21 is, what would we be looking for—maybe the one you
22 just described the full funding—but in addition,
23 are there other sources of funding that you think
24 should be available for mass transit because it
25 seems to me that no matter—obviously, democrats

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2 help, but there aren't a lot of places that have
3 the kind of mass transit that we do, and so we're
4 a little bit at disadvantage in terms of support.

5 CONGRESSMAN NADLER: Well, we are
6 at a disadvantage in several ways. I can't
7 predict what the politics of the next Congress is
8 going to be like or who is going to be or what,
9 but I can say a few things. If you have a
10 democratic House, no one is going to support or
11 propose eliminating the mass transit guarantee.
12 In 2009, when we had a democratic House, we were
13 beginning to look to reauthorize the bill, the
14 proposal - - Chairman is no longer a member.
15 Unfortunately, he lost in 2010. What he came up
16 would have changed the 80/20 mass transit split to
17 75/25, so it would have increased the split that
18 we have had for the last 30 years and that was a
19 proposal that had a fair chance of getting
20 through. Maybe we could revive that which would
21 certainly be good. I hope we can restore what we
22 had in the old bill, which was a major provision
23 for projects of national and regional significance
24 and for freight projects—freight title of the
25 bill. One thing that there was general agreement

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2 on doing is to do two things; number one, without
3 compromising on environmental reviews and so
4 forth, a lot of red tape in reviews that
5 unnecessarily take too long to do a project and
6 there was general agreement--there is still general
7 agreement--that we ought to shorten that. The way
8 the republicans do it this year is irresponsible.
9 We had a provision in the bill two years ago that
10 would have gotten the average time from conception
11 of a project to going the ground from an
12 unbelievable 14 years to 4 years mostly by taking
13 a lot of approvals from being sequential to
14 concurrent and doing various other things. There
15 was a provision--again, there is general agreement
16 in principle. We have something like 108
17 different silos--that is different programs, each
18 of which had a reason at some point for being
19 enacted, each of which had a constituency, some
20 which still do. There is general agreement to
21 consolidate them. Instead of having 56 highway
22 programs and 48--or whatever it is--mass transit
23 programs, make it 6 and 6 or something like that,
24 and give states and transit authorities greater
25 flexibility in spending the money. Those are

1 things we would clearly look at. The other major
2 problem which is frankly not solved is overall
3 funding. The transportation bill has been funded
4 since the '80s—actually, since before then—by the
5 proceeds of the gasoline tax. Gasoline tax is
6 18.4 cents a gallon. It's not a sales tax. It's
7 not a percent. It's 18.4 cents a gallon—whether
8 you pay 1.50 a gallon or 4.50 a gallon, it's still
9 18.4 cents. It does not increase with inflation.
10 If it would increase with inflation just in the
11 last—since 1997 we would be 29 point something
12 cents now. Because of the recession, there is
13 less driving. Because we want to be energy
14 efficient, and we're doing things to be energy
15 efficient there is less consumption of gasoline,
16 which means the more successful we are at our
17 public policy of reducing gasoline consumption,
18 the less revenue we have. It's a policy at war
19 with itself. We have to either increase the
20 gasoline tax, which I would support as a heavy
21 political left, or we have to bring in some other
22 source of revenue. We have to do something
23 because the program will simply no longer support
24 itself, and we have to increase that and we're
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2 looking at various different revenues, and getting
3 all kinds of ideas, but it never got to a real
4 stage because the republicans this year--'cause the
5 republicans came up with this very low amount and
6 even that, they can't figure out how to fund, and
7 their funding ideas were drill everyplace and have
8 proceeds from that go to mass transit or the
9 highways rather, and the second idea was cut down
10 the pensions of public employees, and that would
11 fund some of it, but they took some of that--some
12 of that was done to pay for the payroll tax
13 extension, so that's gone even if you think it's a
14 good idea, which I certainly don't. So we're
15 going to have to come up with some ideas and some
16 revenue sources that aren't there right now.

17 COUNCIL MEMBER BREWER: Okay. As
18 usual, thank you.

19 CHAIRPERSON VACCA: Thank you.
20 Council Member Garodnick, and then Council Member
21 Lappin.

22 COUNCIL MEMBER GARODNICK: Thank
23 you, Chairman and Congressman, thank you for your
24 testimony. I just wanted to make sure that I
25 understand the dollars that are associated with

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2 the 80% for highway and 20% for the mass transit
3 account that was contemplated by the 1982 act was
4 what would be relative to the proposed change. It
5 sounds like a onetime \$40 billion payment. If you
6 can just help us understand that...

7 CONGRESSMAN NADLER: Since 1983,
8 the proceeds of the gasoline tax have gone to the
9 highway trust fund. There has been two accounts
10 on the highway trust fund. One is the highway
11 account and the other is the mass transit account--
12 actually, a few others, but very minor. Two major
13 accounts are the highway trust fund and the mass
14 transit account within the highway trust fund.
15 They were funded at 80/20. 20% would go to the
16 mass transit account. The proposal in the bill
17 was that 100% would go to the highway trust to the
18 highways, instead of 80%--that we would rename the
19 highway account to the alternative transportation
20 account, and if we're only renaming who cares? But
21 it would be funded no longer from the guaranteed
22 revenues of the proceeds of the gasoline tax, it
23 would be funded initially by a \$40 billion
24 appropriation of general revenues in the bill for
25 five years followed by annual appropriations from

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2 general revenues. Now annual appropriations, you
3 know, you're in competition with hospitals,
4 schools and the military, tax cuts, everything
5 else, the budget deficit, and the whole idea is we
6 want a dedicated source of revenue, which we got
7 30 years ago and they want to take away the
8 dedicated source of revenue. Even the \$40
9 billion, they couldn't figure out how to fund.
10 The Transportation Committee put up a bill and
11 they said the job of funding it is ways and means,
12 and ways and means then went around in circles and
13 they come up with some ideas which were obnoxious
14 and they took one of those ideas and used them for
15 something else as I mentioned. They never figured
16 out how to fund it. It shows you the morass you
17 get into and you do not want to be in an annual
18 probations fight.

19 COUNCIL MEMBER GARODNICK: Got it.
20 So the \$40 billion it goes up against everything
21 else. It eliminates the dedicated funding that
22 existed for—

23 [crosstalk]

24 CONGRESSMAN NADLER: It eliminates
25 dedicated funding. To be fair, the \$40 billion

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2 would have been appropriated in the bill for five
3 years, but we didn't know how to fund it yet.
4 After that, you'd have to go annually through
5 appropriations.

6 COUNCIL MEMBER GARODNICK: Okay,
7 got it. And how does that just from an annual
8 basis when the mass transit portion of the highway
9 trust fund or how exactly you describe it, is
10 allocated—how many dollars are we talking about
11 here from year to year that goes into the mass
12 transit portion of--

13 CONGRESSMAN NADLER: [Interposing]
14 Somewhere between depending between \$8 and 9
15 billion.

16 COUNCIL MEMBER GARODNICK: I'm
17 sorry. How much did you say?

18 CONGRESSMAN NADLER: Between \$8 and
19 9 billion a year because it's \$40 billion over
20 five years, so it's between \$8 and 9 billion a
21 year. And of course, the other thing—by the way,
22 they were never really addressed in the bill were
23 the allocation formulas. We never even got to
24 that, but the allocation formulas were being
25 changed in a way not advantageous to a state like

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New York.

COUNCIL MEMBER GARODNICK: sorry,
when you say \$8 to 9 billion a year, you're
talking about historically from 1982 to present
what ordinarily - - mass transit-

[crosstalk]

CONGRESSMAN NADLER: It has varied
from year to year depending on.

COUNCIL MEMBER GARODNICK: - -

CONGRESSMAN NADLER: That's the
bulk [phonetic].

COUNCIL MEMBER GARODNICK: that's
what it is. So that's where the number \$40
billion comes from? It's sort of like a last shot.
This is the last chance before it goes into the
general appropriations process.

CONGRESSMAN NADLER: This would
still be an appropriation from general funds, but
it will be a onetime four to five year shot.

COUNCIL MEMBER GARODNICK: I got
it. Okay. Well, it clearly has the potential to
decimate the funding for mass transit. I totally
agree and I'll ask the Council to add my name to
the resolution. Thank you, Mr. Chairman.

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CHAIRPERSON VACCA: Thank you.

Council Member Lappin?

COUNCIL MEMBER LAPPIN: Please also add my name to the bill. It's nice to see you, Congressman.

CONGRESSMAN NADLER: It's nice to see you.

COUNCIL MEMBER LAPPIN: Thank you for coming and spending time with us. I guess I have just sort of a simple question, which is I know that we have an unparalleled mass transit system, but we're not the only city in this country with mass transit, so how did this—why—is this a direct hit to us, to urban places in the... and what's the—I can't even understand the rationale for it.

CONGRESSMAN NADLER: Well, they never articulated the rationale. The only thing I can say is that—I mean, again, the bill was developed in secret. It was sprung on us. When they announced the bill, and listed in the press release many of the features of the bill, they didn't bother mentioning this change. When we saw the bill, we saw the name change. The bill was

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2 made available to use a day or two before we had
3 to vote on it in Committee. All we saw in the
4 bill was the name change from mass transit account
5 to alternative transportation account. We didn't—
6 we suspected what they were doing, but we didn't
7 really see that until the other shoe dropped when
8 ways and means had to come up with funding and
9 then they said they were going to come up for it
10 from the general fund, and we understood what they
11 were doing. All I can say is when I introduced
12 the amendment at the committee, when you introduce
13 an amendment to the committee, you get five
14 minutes to outline what the amendment does and say
15 what it is, and the chairman of the committee
16 generally says his opinion. I oppose the
17 amendment because. And the chairman of the
18 committee, Mr. Micah [phonetic] said that he
19 opposed the amendment "because it guts the central
20 purpose of the bill." Now they had never said that
21 this is or what was a central purpose of the bill
22 or that this had anything to do with the central
23 purpose, but that's what he said. This amendment
24 would gut the central purpose of the bill, so I
25 gather from that that the central purpose of the

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2 bill was to take the money. One other member—I
3 forget who it was—was quoted as saying, “well, we
4 have to do this. We need the money for highways.”
5 I think what this is really about is that as I
6 said the highway trust fund—the source of funding
7 for the highway trust fund from the gasoline tax
8 is running short now. It ran short for the first
9 time two years ago and it’s getting worse. We
10 have to do something. I think this represents an
11 attempt to say alright, we’ll keep all of it for
12 the highway so we can keep appropriating the
13 highways and we’ll try to figure out what to do
14 about mass transit afterwards if we can because
15 the highways are important and the mass transit
16 isn’t. I think that’s what they were really
17 trying to do.

18 COUNCIL MEMBER LAPPIN: Such a
19 shortsighted and devastating approach.

20 CONGRESSMAN NADLER: Yes, and the
21 fact is when I offered the amendment, I got a
22 number of republicans, including Mr. LaTourette,
23 who is very close to the Speaker, generally. He
24 is from Ohio. But I couldn’t see how any
25 republican who represented a mass transit area, in

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2 New York who represented - - where the Long Island
3 Railroad or Metro North, or New Jersey Transit
4 went or - - , how anybody in a suburban area could
5 vote for this, and the fact is they had a very
6 difficult---great difficulty getting the votes.
7 The amendment would have passed, which is why they
8 withdrew that provision. Although, things are so
9 uncertain, I won't definitely say it's withdrawn
10 for good.

11 COUNCIL MEMBER LAPPIN: But
12 depending on what does happen in the Senate, it
13 does sound like you could put together and have
14 put together a bipartisan group of people who
15 understand the importance of this funding.

16 CONGRESSMAN NADLER: Well, I think
17 that's true—who do not want to see guaranteed
18 funding for mass transit eliminated. And the
19 Senate has no such provision in their bill.

20 COUNCIL MEMBER LAPPIN: Well, thank
21 you for your leadership on this.

22 CONGRESSMAN NADLER: Thank you.

23 CHAIRPERSON VACCA: Thank you,
24 Council Member Lappin. And there being no further
25 questions, I want to thank Congressman Nadler for

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2 your leadership. I am confident we in the Council
3 will pass this resolution and certainly will
4 recommend it to my colleagues. The Committee on
5 Transportation will be meeting tomorrow morning at
6 9:15 to vote on this resolution and to forward our
7 recommendation to the full Council. I thank you
8 as always for your leadership on all
9 transportation issues, but especially for spending
10 time with us today and documenting the case that I
11 think we've made and you've made for action.

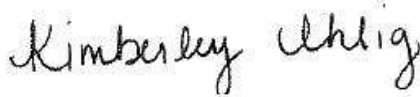
12 CONGRESSMAN NADLER: Thank you and
13 thank you for initiative in this matter.

14 CHAIRPERSON VACCA: Thank you.
15 Thank you, Congressman. I want to mention we've
16 been joined by Council Member Rodriguez. No
17 further speakers or questions, this hearing is
18 hereby adjourned. It is 4--

C E R T I F I C A T E

I, Kimberley Uhlig certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature _____



Date _____

3/28/12