

The Virgin Islands Consortium

Senate President Asks Gov. Mapp To Withdraw Port Authority Nominations

Politics / **Published On February 20, 2015 11:35 PM /**

Cynthia Graham **February 20, 2015**



Senate President Neville James has written an open letter to Governor Kenneth Mapp advising the governor to withdraw [all three](#) of his recent nominations for the Board of Governors of the Virgin Islands Port Authority and resubmit legally "appropriate" candidates. Furthermore, in an interview with *VI Consortium* Friday, Sen. James said Mapp's appointment of Commissioner-designee of the Dept. of Public Works Gustav James to the WAPA board may also be problematic.

In the two-page letter dated February 19, Sen. James pointed out that the Mapp nominees for the Port Authority board are in direct conflict with Virgin Islands law. The issues include a St. Croix appointee replacing a current board member whose

term has not yet expired; the addition of yet another St. Croix appointee that would give the island an advantage by having more board members than is provided by law; and an appointee currently residing on St. Thomas being chosen to represent St. John.

To underscore the rationale for the correspondence, James referred the governor to title 29, section 541, subsection (c) of the Virgin Islands Code, which states: *"Of the five appointed persons, two shall be residents of the Island of St. Thomas, two shall be residents of the Island of St. Croix, and one shall be a resident of the Island of St. John."*

Sen. James writes that in Gov. Mapp's Feb. 17 letter announcing the nominations, "Ms. Shirlene W. Taylor is nominated for the Island of St. Croix to replace Mr. Manuel Guterrez, whose term has expired. However, the information I obtained indicates that Mr. Guterrez's term does not expire until June 27, 2015. Consequently, no vacancy in Mr. Guterrez's office exists at this time, and if Ms. Taylor is confirmed, the Board of Governors would be unlawfully constituted with respect to the number of St. Croix members."

Hugh Pemberton's nomination to the board, James further explained, would give St. Croix an unfair advantage over St. Thomas in terms of numbers of board members because Pemberton was chosen to replace Hector Peguero, who was, in fact, already replaced by Guterrez in 2012. Guterrez's appointment was approved by the 29th Legislature.

"Again, the confirmation of Mr. Pemberton would exceed the two-member limit for St. Croix in violation of V.I.C. section 541," James wrote.

Then, highlighting residency conflicts, James explained that Michael Watson's appointment to the Port Authority's board to represent the island of St. John also violates local law, which mandates that at least one board member reside on St. John. According to James, Watson resides on St. Thomas.

In a telephone interview with *VI Consortium*, when asked if he thought the governor had inadvertently made the nominations, Sen. James said he would not speculate.

"I don't want to speculate as to why this happened like it did," James began, "I think they can speak to that because they were the ones who actually submitted the correspondences and the governor signed off of them."

He continued, "They were dated February, 17th, 2015, which I believe was Tuesday, so I think they can speak to that and I really don't want to speculate. All I know is nominations come from Government House to the Legislature, specifically from the governor to the Senate president's office. They are subsequently forwarded on to the Rules Committee, where all nominations are handled. And if I know of a matter that is in contradiction with local law, I will bring it to their attention. So, hopefully we expect some corrections and submit who they want to replace Mr. Guterrez with at the appropriate time, but that time is not now."

Sen. James said he spoke with Gutierrez, who informed the lawmaker that he is still a board member and plans to "serve out his term until the latter part of June."

Regarding Watson's residency, James said it was "pretty much common knowledge" that he resides on St. Thomas, which precludes him from serving as the St. John representative on the board.

Mapp is in Washington, DC this week, so while Sen. James has not yet received a response from the governor's office, the lawmaker says he expects he would.

"I did have a brief conversation to inform in-house counsel for Government House, Emile Henderson, of these problems with respect to the nominations. So, I think they're working on it right now and I'm assuming I'll get some response from them," he said.

When asked what is the relationship like so far between the governor and the Senate, Sen. James said its in its "infancy."

"The relationship is in its infancy and we are actually looking to have a meeting at some point in early March with the full membership of the Legislature, the governor, the lieutenant governor, and the Delegate to Congress. We're working out the details for that," he explained.

Sen. James says he hopes the governor's office does not take his letter "in the wrong way."

"I was just informing them that what was submitted to us has some errors associated with it and let's cut it off early on before we get down the road and embarrass ourselves by going through the nomination process for nominees who would not be confirmed this time around," he said.

As for Gustav James' appointment to the WAPA board, Sen. James said there could be conflict there because local law stipulates that cabinet members could not serve on more than two boards or commissions. James, the Senate president says, already serves on two.

"By statute that he's already on the Port Authority board and the Waste Management board, the law limits cabinet members to two boards, so that's a potential conflict there, as well."

However, the senator pointed out that James is not expected to appear before the Senate for approval to serve on the WAPA board, as the commissioner-designee, a Mapp cabinet member, is appointed to serve "at the pleasure of the governor."

Sen. James said he is still looking into James' case, however, as well as other Mapp cabinet members, including recently approved Finance Commissioner Valdamier Collens, who testified, under oath, that he currently serves on approximately six or seven boards.

See Sen. James' letter to Gov. Mapp [here](#).