

**METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
777 North Capitol Street, N.E.
Washington, D.C. 20002-4239**

**MINUTES
Board of Directors' Meeting
COG Board Room
November 12, 2003**

BOARD MEMBERS, ALTERNATES AND PARTICIPANTS PRESENT AND NOT PRESENT

***SEE ATTACHED CHART FOR ATTENDANCE**

STAFF

**David J. Robertson, Executive Director
Lee Ruck, General Counsel
Stuart Freudberg, Director of Department of Environmental Programs
Edward Graham, Water Resources Program Manager**

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Chair Hill called the meeting to order at 12:10 p.m. with a recitation of the pledge of allegiance.

2. APPROVAL OF MINUTES OF OCTOBER 8, 2003

Motion was made, seconded and carried unanimously to adopt the minutes of the October 8 meeting.

3. AMENDMENTS TO AGENDA

There were no amendments to the agenda.

Chair Hill congratulated several Board members on being reelected in their jurisdictions. In Fairfax County, Gerry Connolly was elected Chairman of the Board of Supervisors, Penny Gross was reelected as Mason District Supervisor, and Cathy Hudgins was reelected Hunter Mill District Supervisor. In Loudoun County, Sarah "Sally" Kurtz was reelected Catocin District Supervisor. In the Virginia House of Delegates, Jim Scott was reelected to District 43.

In College Park, Stephen Brayman was reelected Mayor, John Schlichting was reelected to the City Council in Gaithersburg, Judith Davis was reelected Mayor of Greenbelt, Robert Dorsey was reelected to the City Council in Rockville, and Bruce Williams was reelected to the City Council in Takoma Park.

a) Report of the 2004 Nominating Committee

Chair Hill announced the names of Board members nominated to serve as next year's Board Chair and Vice Chairs. Phil Mendelson (COG Board Chair), Judith Davis (First Vice Chair) and Jay Fiset (Second Vice Chair).

Those nominated to serve as corporate officers were Robert Dorsey (President), Penelope Gross (First Vice President), Kelvin Robinson (Second Vice President) and Michael Knapp (Secretary-Treasurer).

Nominations for Board Officers will be formally announced during the Annual Meeting and Luncheon in December and will be presented to the Board for action in January. Nominations for Corporate Officers will be presented to the General Membership during the Annual Meeting.

b) Update on December 11 Annual Meeting

Chair Hill announced that invitations to the COG Annual Meeting and Luncheon were mailed in October. The event will take place on December 11 from 11:00 a.m. to 2:00 p.m. at the National Press Club.

c) Executive Director's Report

The Executive Director highlighted activities as of November 2003 by other COG policy bodies, officials and staff.

Mr. Robertson introduced George Rice, the new Assistant Executive Director.

5. ADOPTION OF CONSENT AGENDA ITEM 13

Motion was made, seconded and carried unanimously to adopt the consent agenda.

6. STATUS REPORT AND RECOMMENDATIONS ON INITIATIVES FOR FUNDING FOR BAY RESTORATION EFFORTS

Mayor Pro Tem Bruce Williams, Chair of the Chesapeake Bay Policy Committee, presented to the Board recommendations on initiatives for funding efforts to restore the Chesapeake Bay. He called the Board's attention to an article that appeared in the *Washington Post*, describing a report by the Chesapeake Bay Foundation. The foundation reported that wastewater plants were not doing their share in treating wastewater and concluded that, although the highest possible rating was "Excellent", two plants rated "Good", two plants rated "Needs Improvement" and the rest were rated "Unacceptable."

The Blue Plains plant reduced its nitrogen load by 57 percent from 14 million pounds per year in 1985 to 6 million pounds per year. Other plants have similar success stories. COG staff has helped to prepare a response to the article and will seek publication in the *Washington Post* and also hopes to publish a longer piece for the *Bay Journal*.

Bay restoration efforts will likely demand that more be done. If wastewater utilities are required to do more, it will be costly. Mr. Williams discussed the need for funding support. The new load allocations for nitrogen, phosphorus and sediment can be achieved only by significant additional reductions, which will likely mean significant new costs for local governments.

The estimated cost for meeting the 2000 Chesapeake Bay Agreement goals are about \$19 billion over 10 years. In response to Resolution R39-03, which was approved by the Board in September 2003, the Bay Policy Committee drafted a set of legislative priorities that local governments can use to help established

their agendas for upcoming General Assembly sessions in Maryland and Virginia. Mr. Williams listed several priorities, including support for a proposed Enhanced Nutrient Removal initiative in Maryland, new funding for the Water Quality Improvement Fund in Virginia, and support at the federal level for some version of the already-introduced, "Chesapeake Bay Watershed Nutrient Removal Assistance Act." (S. 827 and H.R. 568).

The Chesapeake Bay Policy Committee will meet on January 9, 2004, to discuss the legislative agenda for the upcoming year. Mr. Williams asked the Board to endorse the funding priorities, as well as a meeting between the CBPC/COG Board and Representative Thomas Davis to discuss H.R. 568. The committee will be sending a letter on behalf of COG to Secretary of Agriculture Ann Veneman in support of funding the Working Lands section of the Farm Bill.

Various Board members asked Mr. Williams to distribute talking points that will assist them when lobbying with Congress. He said he'd provide copies before the meeting ended. Fairfax County Supervisor Penelope Gross stressed the need for additional funding and to maintain the non-regulatory framework of Chesapeake Bay goals.

Board members also shared their concerns about regulatory schemes. They believe that partnerships are the key to maintaining the voluntary nature.

7. TRUCK SAFETY REPORT

Chair Hill reported that under her direction, the Truck Safety Task Force was established to develop a coordinated report to address the issue of truck safety in the National Capital Region. She encouraged Board members to attend the November 20 Transportation Safety Workshop and asked them to adopt R43-03 to accept the Truck Safety Task Force report.

The task force is comprised of law enforcement officials and key stakeholders. Presenters were Officer Chris Feather, Joe Foster and John Rotz, who briefed the Board on the final report.

The report lays out a number of issues on truck safety. As a result of traffic congestion, the Capital Beltway has the highest number of crashes in the region, most of which happen on weekdays between 7:00 a.m. and 5:00 p.m. and on clear and cloudy days. Causation is split about 50-50 between trucks and cars; in fatal accidents, however, cars are more often at fault. Seventy percent of accidents on the Beltway involve tractor trailers. The leading cause of accidents is not paying attention, and Beltway accidents are typically rear-end collisions and sideswipes.

From an enforcement standpoint, Maryland, Virginia and D.C. regulations are set forth by the Federal Motor Carrier Safety Administration (FMCSA). Inspectors, who focus on enforcing regulations to reduce accidents, have found a need to shift the focus to secondary roads. Information sharing between jurisdictions needs to be improved among enforcement agencies.

The presenters recommended several technologies to improve truck safety, such as virtual weigh stations, over-height detectors, infrared cameras and performance-based break testers. Some technologies are actually being built into trucks, such as collision-avoidance systems.

Council Member Robert Dorsey stressed the importance of making sure the general public is aware of the recommendations and findings of the report.

Mayor Judith Davis asked how the report would be distributed to state officials, etc. Chair Hill suggested that time be set up to speak to Congressman Wolf, who cannot attend the November 20 conference. She suggested that a single comprehensive report—inclusive of the entire COG region—be compiled to distribute to state officials. In response, Mr. Robertson said that a two-phase launch is scheduled and that Phase 1 of

an outreach is scheduled for November 20 (conference). Phase 2 is getting out to state DOTs, highway, state police and others, also on November 20, to showcase the work done by the taskforce.

Delegate James Scott commented on the reporting of intrastate violations of commercial vehicles and expressed concerns about the lack of reporting in Virginia. In response, one of the presenters said that Maryland reports commercial interstate violations through the Maryland State Police, who then transmit reports to the FMCSA Safer System. Fairfax County and other Virginia jurisdictions that conduct Motor Carrier Safety activities are not permitted to report their inspections through the state police. Consequently, commercial vehicles inspected in interstate commerce by local jurisdictions in Virginia are not reportable to the Safer System.

Mr. Scott asked if this could be remedied by legislation and wondered if there was an obstacle to such legislation. The presenter said that a combination of legislation and policy may be needed. Ms Gross added that several years ago, Fairfax County decided to fund its own Motor Carrier Safety patrol since the state wasn't doing it, so she doubted that the obstacle was due to legislation.

Officer Feather said that the majority of inspections by local agencies are intrastate rather than interstate and would not be reported to FMCSA.

Council Member Nancy Floreen asked whether the taskforce prioritized recommendations in the report, and the presenters said there had not been enough time to do so. Dr. Jacqueline Brown asked about the cost of recommended technologies in the report and anticipates questions will be asked at the conference. She recommended that the taskforce come up with a cost range. The presenter said costs could vary tremendously based on specific technology and expressed concern that price tags would deter people from making changes and adopting some of the technologies.

Motion was made, seconded and carried unanimously to adopt Resolution R43-03.

8. REGIONAL ACTIVITIES TO REDUCE IMPAIRED DRIVING IN THE WASHINGTON METROPOLITAN AREA

Ms. Gross briefed the Board on the report of the Taskforce on Regional Activities to Reduce Impaired Driving in the Washington Metropolitan Area. The report includes recommendations on legislation, leadership and public outreach, enforcement and prevention, and judicial and treatment issues.

Last February the Board of Directors received an update on impaired driving crashes in the region and passed a resolution directing the Public Safety Policy Committee to convene a taskforce on Regional Activities to Reduce Impaired Driving. The task force included experts from many fields, including law enforcement, treatment, prevention and even the hospitality industry. Ms. Gross thanked the taskforce for their hard work.

She introduced Lt. Patrick Burke, from Washington's Metropolitan Police Department, Kathie Durbin, from the Montgomery County Department of Liquor Control and Kurt Erickson, from the Washington Regional Alcohol Program, who are members of the taskforce.

Although the crash rate had been reducing over the last 20 years, the rate has gone back up. Impaired driving is still an issue. The taskforce found that, due to lack of data, the region is not able to measure the efforts going into reducing impaired driving and that programs can't be fully evaluated. The issue lacks leadership to attract attention and a single point of responsibility. Without attention from the media and public, there has been a decline in support for organizations working on this issue.

Ms. Gross outlined the taskforce's recommendations and next steps for implementing those recommendations. She asked the Board to adopt R44-03, which urges states to enact the laws they

have not yet passed and enumerated which laws were already in place. Motion was made and seconded to adopt Resolution R44-03, and the Chair opened up discussion.

Board Member Kelvin Robinson expressed concern about the insurance provision in the Resolution that would prohibit insurance refusal to cover medical costs if injury occurred while under the influence. He said that without a clear understanding of the provision, he had questions about the impact of people showing up in emergency rooms given the problems already occurring in the District. He added that he didn't have sufficient information about the data in the report to approve the Resolution and asked for clarification.

Mr. Robinson moved to amend the Resolution to strike section three and "the Mayor" from section four to effectively remove D.C. from R44-03. The motion to amend was followed by more discussion.

Mr. Mendelson said he'd be uncomfortable with excluding insurance language for D.C. and suggested treating each jurisdiction the same. Council Member Redella Pepper suggested that the language be changed from "urged to enact" to "urged to consider." In response, Ms. Gross said that "consider" would be too weak. Based on the Dillon Rule in Virginia, the state must enact enabling legislation to allow local governments to enact their own ordinance. Ms. Pepper called the question and it was seconded. More discussion followed.

Mr. Robinson said he's concerned about the consensus process and the Board's inability to get more information on issues significantly impacting jurisdictions. He moved to table his motion to amend the language in the Resolution until January, then moved to instead defer a vote on the Resolution until January. The motion was seconded and passed by a vote of 7 yeas, 5 nays and 3 abstentions.

Ms. Davis asked if there was a way to get the impaired driving report to the state legislatures at upcoming legislative dinners. Mr. Scott said he could get the report to the Virginia legislature.

Ms. Floreen suggested that a letter be written as a statement of regional commitment to express concerns about consistent standards on impaired driving. Ms. Gross said she was disappointed that the Resolution was not approved because it sent a mixed message to the public and media. Chair Hill made a motion to send a letter to the states' legislative sessions. The motion was seconded and approved by a vote of 7 yeas, 3 nays and 5 abstentions.

Ms. Gross urged Board members to attend the Public Safety Policy Committee meeting on December 5 and to prepare questions beforehand and forward to Calvin Smith of COG.

9. COMMUTER CONNECTIONS PRESENTATION

Due to time constraints, the Commuter Connections presentation was postponed. Mr. Robertson said that he recommended this presentation so that significant items coming before COG's Transportation Planning Board could be brought to the attention of the Board and added that the presentation will take place at a later date.

10. RECOMMENDATION TO AMEND BYLAWS

Lee Ruck, COG General Counsel, briefed the Board on the status of the amended bylaws. After two Committee meetings, proposed amended Bylaws and Procedures were presented to the full Board at its October meeting, including several unresolved questions concerning membership and Board participation. The Board considered the proposals as a Committee of the Whole; as such it acted upon the previously unresolved questions and directed staff to prepare a conforming copy of the Bylaws for formal Board action. Any modifications recommended by the Board will be presented to the full membership at the Annual Meeting in December for action. The amended Rules of Procedure recommended by the Committee of the Whole will be formally considered by the Board in January.

Ms. Floreen moved to approve everything but the Manassas Park language. Motion was seconded and carried unanimously to approve the bylaws, with the exception of Section 2.02 concerning Manassas Park. She then made a motion to adopt language in the proposed Bylaws that would give Manassas Park grandfathered status, providing a window of opportunity to join. The motion was approved by a vote of 7 yeas, 3 nays and 5 abstentions.

11. PRESENTATION OF AUDITOR'S REPORT

Auditor Ralph Bazilio, of Thompson, Cobb, Bazilio & Associates, presented the results of the FY 2003 Audit Report. He outlined the responsibilities of independent auditors and briefed the Board on year end balances of COG's assets, funds, revenue and expenses.

Various Board members commented that they had not received the Audit Report by mail. Mr. Robertson explained that the report was unavailable for mail-out but that it was e-mailed. He added that in the future, a complete packet will be mailed to each Board member.

12. FY 2005 WORK PROGRAM AND BUDGET

Mr. Robertson briefed the Board on recommendations from the Committee on Finance for the proposed FY 2005 Work Program and Budget. He asked the Board to recommend adopting the Work Program and Budget by the general membership at its Annual Meeting in December and to adopt Resolution R45-03, transmitting the FY 2005 Work Program and Budget to COG local governments.

In reference to the Washington Area Housing Trust Fund, Mr. Robertson said that Congress earmarked \$500,000 for the Housing Trust Fund, which is leveraged by additional funds. COG is now called to provide operating support on a voluntary basis in the amount of a three cents assessment per capita for operating expenses. Mr. Robertson recommended that the COG membership authorize the billing of COG member jurisdictions for this assessment. The Housing Trust Fund is in the process of securing additional funds.

Ms. Davis added that PREP will request funds in January to match the grant it's already received. To make sure PREP stays viable, they may request up to \$80,000.

Motion was made to adopt R45-03 and seconded, and the Board discussed the issue. Ms. Floreen asked COG staff to prepare a "Best Management Practices" manual as they work through the program for the year, particularly for environmental issues. Ted Graham of COG said that staff would compile the information. Stuart Freudberg, Director of the Department of Environmental Programs, added that a "Local Government By Example" conference and an environmental conference is scheduled for March 2004.

Resolution R45-03 was unanimously approved.

The COG Board and Executive Director thanked Chair Hill for her service on the Board of Directors. Chair Hill said that it was a pleasure to serve on the Board, and that she's learned so much from each member of the Board. She said she looked forward to passing the gavel to Mr. Mendelson in January.

12. THE BOARD WAS REMINDED THAT THE NEXT BOARD MEETING WOULD BE JANUARY 14, 2004

There being no further business, the meeting was adjourned at 2:15 p.m.