METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
Board of Directors
Agenda Item #10
Approve Amendments to the COG Employee Pension Plan
May 12, 2010

Supporting Documents

1. Resolution R28-10, sick leave accrual
   A. Attachment 1-A, recommendation memo dated May 6, 2010
   B. Attachment 1-B, impact of unused sick leave
   C. Attachment 1-C, sample of unused sick leave
   D. Attachment 1-D, response to employee questions

2. Resolution R29-10, split distribution
   A. Attachment 2-A, recommendation memo dated May 6, 2010

Resolution R28-10
May 12, 2010

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
777 North Capitol Street, NE
Washington, DC 20002

RESOLUTION AMENDING METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS PENSION PLAN

WHEREAS, the Metropolitan Washington Council of Governments (COG) has established and maintained the Metropolitan Washington Council of Governments Pension Plan (Plan) for the benefit of its employees; and

WHEREAS, Section 10.01 of the Plan provides that COG may amend the Plan; and

WHEREAS, to address a significant overfunding and surplus, in 2000 COG amended the Plan to add several benefits, including permitting employees who elect to retire to convert a portion of their accumulated unused sick leave into additional benefits; and

WHEREAS, recently the Plan, like similar plans, and the economy generally, has suffered a substantial reduction in value, requiring increased contributions by both COG and the employees to avoid underfunding and to maintain financial stability; and

WHEREAS, recent retirements have demonstrated that continuation of the 2000 unused sick leave benefits threaten to further underfund the Plan, requiring significant additional contributions by both COG and the employees; and

WHEREAS, COG management and the Pension Plan Administrative Committee have considered the potential financial hardship to a significant majority of COG employees and COG programs in maintaining these benefits at their current level, and recommend that COG minimize the financial impact on the corporation and most of its employees while still affording some reasonable additional benefit to current employees who retire with expectations based upon the 2000 amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS THAT:

Section 5.04(b) of the Plan shall be deleted and the following new provision added in its place, effective July 1, 2010:

> (b) A Participant who retires on or after his or her Normal Retirement Date may become eligible on his or her Retirement Date for a supplemental benefit, determined by subtracting 240 from the number of unused hours of sick leave the Participant earned with respect to the period September 1, 2000, through June 30, 2010. If positive, the resulting number shall be divided by 240 and rounded up

to the nearest whole integer (the “Credit”). The supplement, if any, shall be the difference between the Normal Retirement Benefit determined under subsection (a) and a benefit determined under the same formula, but with the addition of the Credit to the Participant’s Benefit Service, Expected Service, Compensation, or all of them, as follows. The entire Credit shall be added to the Participant’s Benefit Service and Expected Service if, as a result, Benefit Service does not exceed 300. If, however, the Participant’s Benefit Service equals or exceeds 300 prior to considering the Credit, the Credit shall be multiplied by one–sixtieth of the Participant’s Compensation in the year of retirement, and added to the High Three–Year Average Compensation otherwise determined. If, however, the Participant’s actual Benefit Service does not exceed 300, but would do so if augmented by the Credit, the Credit shall be added to Benefit Service and Expected Service, but only until Benefit Service equals 300. Any Credit remaining shall be applied to increase Compensation, as provided in the preceding sentence.

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
777 North Capitol Street NE
Washington, DC 20002

Date: May 6, 2010

To: COG Board of Directors

From: David Robertson, Executive Director

Subject: COG Board Action on Amending the COG Employee
Defined Benefit Pension Plan

Requested Action

The COG Board is asked to take action on May 12, 2010 to amend the COG employee defined benefit pension plan to modify a provision added in 2000 that increased the pension benefit by allowing retirees to apply the value of unused sick leave to the final year of salary for pension benefit calculation. This recommendation was approved by the COG Pension Plan Administrative Committee on May 5, 2010. Management has concluded that this benefit warrants review and modification because continuation without adjustment:

- Adds an additional element of fiscal uncertainty to COG's defined benefit pension plan at a time of market instability;
- Is inconsistent with pension benefits of COG member governments and other benchmark organizations; and
- Will require additional employee and employer contributions to fund the plan, above the contribution increase already projected.

Management has outlined several options and a preferred recommendation that modifies this benefit while maintaining a fair and market-competitive pension benefit for COG employees.

Assuming COG Board approval of the management recommendation, COG will increase its employer contribution to the pension plan by an additional one percent to 8 percent, effective July 1, 2010 to support the added cost for the modified sick leave pension accrual benefit. Management will not recommend any employee increase to the plan for this period. Management, with the input of the Pension Plan Administrative Committee, will re-evaluate plan assets and liabilities in anticipation of any recommendations for additional employer or employee plan contributions for the fiscal year that will begin July 1, 2011.

Background

COG provides a defined benefit pension plan for regular employees. The benefit is 80 percent of high three-year average salary at normal retirement age. Employees may elect to take an annuity at retirement, or may take a lump sum payment. COG has provided this benefit since the 1970s.

Employees may on a voluntary basis contribute to a 503(b) or 457 supplemental retirement savings program similar to a 401(k), up to the maximum allowed by law. COG does not provide an employer match. COG also does not provide a retiree health care benefit. The retirement plan provides a modest supplemental benefit, originally $100 monthly and now $224 monthly that may be used by employees to offset the cost of retiree health care insurance.

COG has not participated in the retirement portion of Social Security since 1976. In the past, COG was viewed by IRS and other federal oversight and regulatory agencies as being a quasi-government agency, some of which have their own pension plans in addition to, or in lieu of, Social Security. Although previous federal Social Security legislation has considered bringing COG and other employers remaining outside Social Security retirement fully into Social Security, that has not yet occurred. COG participates in the Medicare portion of Social Security, effective 1986. COG and employees each contribute the required Medicare portion of the Social Security tax, currently 1.45 percent.

The PPAC is responsible for advising the COG Board on the administration of the defined benefit pension plan and recommending any changes in benefits or employee contributions.
The PPAC is comprised of three representatives from the COG Board, two elected employee representatives, and three management representatives, including the Executive Director who chairs the PPAC. The COG Chief Financial Officer is a non-voting member of the PPAC.

COG retains three firms to provide support to the PPAC and COG: 1) Bolton Investment Partners – investment support; 2) Cheiron – actuarial services; and 3) Aiken Gump Strauss Hauer and Feld, LLP, legal services. Investment, actuarial and legal services are allowable costs that may be charged to the pension plan.

History
The pension plan historically had higher levels of employer and employee contribution than at present, and coupled with positive investment returns the plan was significantly overfunded as recently as the late 1990s.

Because COG revenues largely come from grants and contracts and such funds cannot be used to support a pension surplus through COG's indirect cost allocation plan, the PPAC recommended and the Board approved plan enhancements and contribution reductions in 2000 and 2004 to reduce the surplus and provide a more competitive retirement benefit as part of COG's total compensation approach.

Significant pension plan amendments approved by the COG Board have included:

Year 2000: 1) Reduce employee contributions from 7.5 percent to 5.0 percent (subsequently increased and now 7.0 percent as of 2010); 2) provide a supplemental monthly benefit (initially $100) to offset cost of retiree health care insurance (COG does not sponsor or contribute to retiree health insurance); and 3) allow retirees to apply accrued sick leave to years of service or to add the imputed value of accrued sick leave to final year of salary for pension benefit calculation.

Year 2004: 1) replace 80 percent of high five-year average salary with 80 percent of high three-year average for COG define benefit pension benefit calculation; and 2) increase supplemental monthly benefit from $100 to $200 (with subsequent adjustments for inflation, now $224).

Sick Leave

COG, like many public and private sector employers provides employees with paid sick leave so that employees do not experience a reduction in salary when they are unable to work because of illness or injury, or when an employee must care for a family member who is ill or injured.

Employees earn four hours of sick leave each two-week pay period or 13 days per calendar year. Similar to many public sector employers, there is no limit to the amount of sick leave an employee may accrue.

Employees may not accrue annual leave in excess of 320 hours (40 days) each calendar year. Employees who leave COG, either because of resignation, separation or retirement receive a lump sum payment of accrued annual leave. Employees who leave COG do not receive a similar "cash out" payment of accrued sick leave.

Sick Leave/Pension Concerns

For most of COG's history, it had few retirees, in part because of the age of its workforce and some employees left COG prior to vesting in the retirement plan. Even after the pension enhancements of 2000 and 2004, COG experienced few employee retirements (ten retirees during the period 2000 through 2009). COG now anticipates more retirements in the next five to ten years. Many of these employees have been with COG for 20 or more years, receive a higher level of salary compensation, and have significant accumulated sick leave. With no modification to the sick leave/pension provision currently in place, employees may retire with a significantly higher level of pension benefit approaching or exceeding the final year of salary, which would place added financial strain on an already strained COG pension plan.

It is important to note that the current sick leave/pension policy also allows retirees to apply accumulated sick leave toward the maximum 25 years (300 months) for those that have reached retirement eligibility on age before reaching 25 years. This aspect of the current policy is not proposed for amendment, but the sick leave is capped for all employees.

Sick Leave Usage

Unlike salary compensation, which generally rises modestly each year consistent with COG's pay-for-performance evaluation policy, sick leave use and balances at any given time are difficult to predict. In recent years, with tighter application of the Fair Labor Standards Act (FLSA), non-hourly employees, which constitute 82 percent of the COG workforce, may not be required to take sick leave for brief absences from work for medical appointments, etc., resulting in the likelihood of less sick leave use and higher sick leave balances.

As of December 2009, several COG employees have significant sick leave balances that under the current policy can be applied to boost pension benefit at normal retirement. A balance of 2,000 hours is approximately eight months of sick leave for pension purposes. For pension planning purposes, management is assuming that most employees who remain at COG until normal retirement age will accrue significant leave balances that under current policy may be applied to boost final year of salary for pension calculation purposes.

Sick Leave Balance (Hours)	No. of Employees
2,000 >	4
1,500 – 1,999	5
1,000 – 1,499	7
500 - 999	19
< 500	86

Predictability

Given the limited number of employees who have retired from COG and the difficulty of projecting sick leave use and balances, to date the cost of this benefit has not been factored into COG's annual actuarial projections used to determine pension revenues and expenses. The projections provided to the PPAC have not estimated the additional cost to the pension to support this benefit. Also, the pension statements provided annually to employees to estimate their benefit at normal retirement age have not included application of sick leave balances to pension benefit.

Beginning July 1, 2010, management believes that COG must make reasonable assumptions concerning projected sick leave balances at normal retirement age, project the added cost to the plan, and project the added contribution (employee and employer) required to sustain that benefit if the benefit is maintained or modified.

The actual pension benefit has been determined on a case-by-case basis when employees who have announced their retirement have come forward to request COG's Office of Human Resources Management and Cheiron to calculate their projected retirement benefit. Although COG has experienced a very small number of retirees since the sick leave/pension provision was approved in 2000, the number of employees eligible for normal retirement is projected to increase in the next few years, many with significant sick leave balances.

Eligible for Normal Retirement (Year)	No. of Employees
2010 – 2015	27
2016 – 2020	11
2021 – 2025	18
2025 >	65

Instability in the financial markets in the past few years has had a negative impact on many public sector pension plans, including COG's defined benefit pension plan. Even before incorporating the cost of accrued sick leave to the plan, the COG pension plan "surplus" is near depletion, in part because of deliberate and thoughtful action by management and the COG Board to decrease employee and COG contributions and increase benefits, but also due to market declines.

In 2009, the COG Board approved a new pension investment strategy designed to maximize return and reduce risk, and approved increases in both employee and COG contributions to the plan. Even with the strategic actions approved in 2009, actuarial projections (not including the sick leave/pension benefit) suggest that contributions to the pension plan by employees, COG or both will have to rise in the future to meet project retirement benefit costs. This conclusion is supported by actuarial projections provided by Cheiron as of July 1, 2009 and distributed to COG employees in April 2010.

Management is concerned that to fully fund the current sick leave/pension benefit would require additional contributions above current projections, and would ultimately increase pension contributions to all employees.

Pension Contribution Forecasts

COG and its actuarial consultant Cheiron annually forecast the projected pension benefit cost and the contributions required to support that cost. The PPAC and management have long acknowledged that these are indeed estimates, and that actual costs can vary depending on when employees choose to retire (some have delayed retirement beyond their normal retirement date) and investment performance. The PPAC and management have stressed the importance of regular, measured actions to reach pension targets.

Management asked Cheiron to provide estimated impacts on the contribution to the pension plan that include a reasonable assumption concerning how accumulated sick leave would boost the final year of salary for pension calculation. For this purpose, Cheiron estimated that employees would have sick leave balances at normal retirement age similar to those employees who are now at or near retirement. Cheiron's analysis of impact is described in Attachment A.

Management recognizes these are forecasts. Cheiron has always cautioned that the pension fund balance is a moving target and that management should not quickly overcorrect. Indeed, even in a depressed financial market, the COG pension plan has performed relatively well compared with many other public sector plans. However, if a reasonable assumption is made concerning the cost of accrued sick leave to boost final year of salary, it becomes an additional cost to the plan, and makes a tough and uncertain fiscal challenge for COG even more tough and uncertain.

From 2000 to 2009, ten employees have retired subsequent to the September 2000 COG Board approval of the sick leave pension accrual benefit. Five retirees had sick leave balances in excess of 1,000 hours. Their retirement has had a fiscal impact on the cost of the plan without offsetting additional contributions to the plan, but has been accounted for in the annual pension fund balance and projection report provided by Cheiron to the PPAC and management. Continuation of this benefit, absent the additional increase in contribution outlined above would have an adverse impact on the fiscal health of the plan.

Management believes that a fiscally sound defined benefit pension plan that provides a benefit of 80 percent of high three-year salary is a critical part of COG's compensation package. Management is concern that if the pension plan enters and remains in a period of unfunded liability for a significant period of time, staff and the COG Board may concluded the plan is not fiscally viable and consider closing the plan as of a fixed date and returning to Social Security, with the continued option of 403(b) or 457 plans. Management believes this would weaken COG's compensation package and competitiveness as an employer.

Conclusion

COG receives almost all of its funding from the public or charitable sectors. To provide quality programs and services, it needs to provide fair compensation and benefits for its employees. A defined benefit pension plan that provides 80 percent of high three-year average salary is fair, especially given that COG employees do not participate in the retirement portion of Social Security. A pension plan that allows retirees to receive a pension benefit well in excess of 80 percent of high three-year average salary is likely unsustainable in a volatile financial market absent higher contributions and is inconsistent with the benefit provided by COG members and benchmark organizations.

Options and Recommendation

Management has explored several options to address this issue. As to be expected with pension and benefit matters, all have pros and cons and none are without consequences for COG and/or its employees.

Of course, there are legal considerations that may limit COG's actions regarding its pension plan. Violations of IRS and/or ERISA rules could mean that the COG retirement plan loses its tax qualified status. ERISA and the IRS Code present no real barriers to decreasing or evening totally eliminating pension benefits going forward. These statutes protect against reductions in benefits that have already accrued. However, many of the IRS and ERISA rules do not apply to a "government plan" and COG's retirement plan qualifies as a government plan.

Additionally, Section 10.1 of the COG Pension Plan precludes "take-aways" – removal of benefits previously accrued and presumably relied up. This section is countered by the basic Plan provision that the COG Board may change any aspect to the Plan to protect its economic viability. These facially competing provisions can be read to give employees personal contract rights, independent of any federal regulatory requirement.

Management options are summarized on the table on page 7.

MANAGEMENT OPTIONS TO MODIFY SICK LEAVE PENSION ACCRUAL BENEFIT

OPTION #1, MAINTAIN ACCRUED BENEFIT; ELIMINATE GOING FORWARD

- Eliminate sick leave pension accrual for new employees, effective July 2010.
- Current employees would retain the sick leave pension accrual for sick leave earned through June 2010 (minus 240 hours).
- Eliminate additional accrual for current employees, effective July 2010.
- *Projected additional contribution to pension plan for OPTION #1, 3.26 percent.*

OPTION #2, TIME "CAP" FOR ACCRUED BENEFIT; ELIMINATE GOING FORWARD

- Eliminate sick leave pension accrual for new employees, effective July 2010.
- Current employees would retain the sick leave pension accrual for sick leave earned from September 2000 (date provision was approved) through July 2010, date of proposed change.
- Eliminate additional accrual for current employees, effective July 2010.
- Action effectively "caps" the amount of sick leave that could be applied to boost pension at approximately 1,000 hours (minus 240 hours).
- *Projected additional contribution to pension plan for OPTION #2, 1.83 percent.*

OPTION #3, TIME "CAP"/HIGH FIVE FOR ACCRUED BENEFIT; ELIMINATE GOING FORWARD

- Eliminate sick leave pension accrual for new employees, effective July 2010.
- Current employees would retain the sick leave pension accrual for sick leave earned from September 2000 (date provision was approved) through July 2010, date of proposed change.
- For sick leave pension accrual computations, spread accrued sick leave (minus 240 hours) over high five-year average salary rather high three-year average salary, the computation which existed prior to April 2004.
- Action both "caps" the amount of sick leave that could be applied to boost pension at approximately 1,000 hours (minus 240 hours), plus applies it to the high five-year average salary provision that was in place at the time of original adoption, rather than the high three-year average salary subsequently adopted, but not specified for this provision.
- Eliminate additional accrual for current employees, effective July 2010.

Projected additional contribution to pension plan for OPTION #3, 0.76 percent.

OPTION #4, ELIMINATE ACCRUED BENEFIT; ELIMINATE GOING FORWARD

- Eliminate sick leave pension accrual for new employees, effective July 2010.
- Eliminate sick leave pension accrual for current employees, effective July 2010.
- Current employees would not be able to apply any accrued sick leave to their pension benefit.
- *Projected additional contribution to pension plan for OPTION #4, zero percent.*

NOTES

- All options assume allowing employees to increase service toward the maximum 25 years (300 months) for those that reach retirement eligibility on age before accruing 25 years.
- Projected additional contribution to pension plan for each options is in addition to the current contribution forecasts.

Management Assessment of Options

Option #1 is largely the status quo and only amends the plan for new employees hired after July 1, 2010 and would potentially constitute the most costly option for COG. It also poses the least risk since COG is not modifying the accrued benefit for any current employee and COG's ability to take this action is very clear.

Option #2 and Option #3 are variations on the same option, basically different approaches to limit the cost to provide this modified benefit for current employees and eliminating the benefit for new employees.

Option #3 potentially has the added benefit of being more consistent with the sequence of past modifications of the pension plan, which would also serve to modestly limit the cost of the accrued benefit for current employees. Affected employees may view any of these options as a "take-away".

Option #4 is the most aggressive, most predictable from an actuarial forecasting perspective, least costly, would impact current employees the greatest.

Option #1 would require an increase in both employee and employer contribution to the pension plan, effective July 2010 to offset the cost for maintaining the current accrued benefit but terminating the benefit for new and current employees after July 2010.

Option #3 will not require an increase in employee contribution effective July 2010. Management's preliminary projections for COG's FY 2011 (beginning July 1, 2010) indirect cost allocation plan will include an allowance for a one percent increase in the employer contribution to the plan. Management and the PPAC will continue to monitor the plan's investment performance and actual retirement activity to update forecasts on future plan contribution levels.

Assuming COG Board approval either Options #2, #3 or #4, it is probable that some employees currently eligible for normal retirement will retire prior to the date the approved option is effective. Management estimates no more than four retirements may fall into this category. These are likely to be higher wage, longer-tenure employees with higher sick leave balances. This will add to pension plan costs, but should these employees retire, most remaining employees are not likely to be significantly affected by the change in the pension plan and will benefit from not having to incur the higher contributions that would most certainly be required to support an un-modified sick leave pension accrual provision.

The September 2000 management recommendation and subsequent COG Board action approving the sick leave pension accrual benefit were well-intended to enhance benefits, improve retention and were taken during a period of a pension plan surplus and a strong economy affecting COG and its member governments. Management has concluded the benefit should be changed to protect the viability of COG's pension plan for current and future employees. At a time when local and state governments nationwide and in the National Capital Region are struggling with the most serious budget challenges in a generation, COG must address this particular challenge clearly, fairly and quickly.

Recommendations

1. Management recommends Option #3. Option #1 provides only minimal cost-savings to COG, the chief concern in re-examining the sick leave pension accrual benefit.

2. Management strongly believes that providing credit for sick leave accrued prior to the September 2000 approval of the sick leave benefit is not financially viable and the benefits should have been capped to be more predictable and sustainable. Therefore, management views it as reasonable to provide credit for sick leave earned from September 2000 only, effectively capping the amount that may be accrued and applied to pension benefit to approximately 1,000 hours (minus 240 hours). Future sick leave accrual would be eliminated for current and new employees, effective July 2010.

3. The original intent of the sick leave policy was based on average high five-year salary. The 2004 plan amendment moving to high three-year salary did not explicitly link the sick leave pension accrual to the new high three-year salary provision. This element of Option #3 has the benefit of placing actions in clearer sequence.

4. Capping sick leave pension accrual for current employees through July 2010 is more predictable and can be reasonably funded based on financial analysis conducted by the independent consultant, Cheiron, or any future consultant support. Without this cap predictability and sustainability concerns remain. Additionally, retaining the sick leave pension accrual provision will initially benefit a smaller number of retirees; however the cost will affect all employees and the financial health of COG's pension funds.

5. Assuming Option #4 is not selected, which eliminates the sick leave pension accrual and therefore has no cost impact, management recommends that beginning with the next evaluation period, Cheiron or any future actuarial consultant and COG's Office of Human Resources Management include a forecast of accrued sick leave for pension calculation in both projections of employee pension benefits and plan contributions.

6. Management recommends that any COG's pension plan amendments should include draft plan amendment language and a detailed fiscal impact assessment prior to COG Board action. Management also recommends new procedures to provide for additional review and approval of pension benefit personnel actions, which are currently processed by COG human resources and accounting staff. The consequences of even a tiny calculation mistake may be significant to COG, the employee and the pension plan and requires greater oversight and scrutiny.

Additional Significant Comments At and Following April 2010 PPAC Meeting

Sick Leave Accrual Cost: Additional information was requested on the methodology and assumptions use to arrive at the cost impact to maintain the current sick leave pension accrual. This information is described in Attachment A.

Management Recommendation: Additional information was requested on the methodology and assumptions used to calculate the application of Option 3. Specifically, there was some confusion about how sick leave would be treated using a high-five year average compared with the high three-year average. This information is described in Attachment B.

Sick Leave Cash-Out Option: There was a PPAC suggestion to allow retirees to receive a cash-out of a portion of accrued sick leave as a one-time, lump-sum payment, for example, 25 percent of accrued sick leave. This approach could raise two questions, first, would such a cash-out benefit be an appropriate charge to COG's pension plan, and if yes, would it in effect be double-counting benefits, e.g. a retiree would receive a partial sick leave accrual pension benefit under the recommended option, and also receive a monetary cash-out of sick leave? If the benefit was not paid by the pension plan, it would have to be supported by other COG revenue. An analysis of 25 employees at or near retirement age in the next few years showed a $2 million cash-out at 100 percent of accumulated sick leave at current salary. If the benefit were limited to 25 percent of accumulated sick leave, the cost to COG would be approximately $500,000. After reviewing this suggestion and estimates of cost impact, management does not recommend that it be added to the modified benefit.

Effective Date: Both supervisors and employees have expressed concern that several employees currently eligible for normal retirement and who did not plan to retire soon will accelerate their plans and retire prior to the proposed July 1, 2010 effective date of the plan amendment. Management has estimated that four employees may fall into this category and one has already chosen to retire in late May 2010.

There is concern about filling key positions with what could be less than two months notice and the rapid departure of managers who would likely be unable to complete employee performance evaluations prior to the end of the June 30, 2010 review period. These are legitimate concerns that merit PPAC consideration.

There are two ways to respond to these concerns. The first is that the additional accrual could be halted as of July 1, 2010, but that the effective date of termination of accrued sick leave benefit for current employees could be delayed until September 1, 2010. This would allow an additional two months to implement a more orderly transition for key managers who may elect to retire. A second option is to retain the proposed July 1, 2010 effective date for all aspects of the recommendation, but allow COG to contract with retiring employees, as needed, for a limited period of time to support a smooth transition and complete pending tasks such as employee performance evaluations.

Other Comments: COG management received several employee comments through its Intranet message board that identified a number of technical and general questions and comments. Questions/comments and responses are described in Attachment C.

Next Steps

The PPAC approved the proposed recommendation on May 5, 2010. The COG Board is asked to approve at its May 12, 2010 meeting. Action will be effective July 1, 2010.

Metropolitan Washington Council of Governments Pension Plan

Impact of Unused Sick Leave
On 7/1/2009 Valuation

Procedures of Initial Study

- Based on 2008 valuation results
- Calculated % increase in lump sum at retirement with and without sick leave
  - Used actual unused sick leave balances for anyone with over 240 hours
  - Captured use of sick leave for service versus High-3 Increase
  - Adjusted average % increase to account for proportion of group with sick leave balance to those without
- Applied the developed ratio to base valuation results to get cost impact as percent of pay
  - Amortized change in unfunded liability over 30 year
  - Compared to base valuation with similar 30 year amortization
- Results of study were presented in April 7 memo to PPAC

Results of Initial Study

Option	Features	Cost Increase
0	Make no changes to unused sick leave provision	3.50%
1	Eliminate going forward with full grandfathering (GF) treatment	3.26%
2	Eliminate going forward with capped GF treatment and High-3 sick leave	1.83%
3	Eliminate going forward with capped GF treatment and High-5 sick leave	0.72%
4	Eliminate with no GF treatment	0.00%

Update Study Figures for Option 3

- Now that the 2009 valuation has been completed, we were asked to perform a more accurate cost impact study using current data and the recommended Option 3
- For this update, we used the valuation program to explicitly use additional sick leave balance for future retirement calculations
  - Fed in actual monthly equivalent for capped service for each person
  - Programmed to use for either extra service or extra High-3 on case by case basis
- Result was an additional cost of 0.76% of payroll, versus initial estimate of 0.72%
- Now we are providing full valuation and projection results as if Option 3 were in place at 7/1/2009 and picked up in valuation

Valuation Status

- On April 20, Cheiron presented results without any anticipation of unused sick leave
- The current recommendation for recognition of unused sick leave is as follows
  - to use only sick leave earned between October 2000 and July 2010
  - Cap this balance at 1,000
  - When translating to additional Final Average Earnings, treat as if calculation still used the 5 year average
- We estimated the impact on the 7/1/2009 valuation results, had this provision been in place
  - Can't know actual impact until we have been provided the unused sick leave balances as of October 2000 and July 2010
  - Estimated valuation results with this change are on the following page

Move from Surplus to Unfunded

- The base valuation results showed a small surplus remained at 7/1/2009
- Traditional method of recognizing surplus was to use as much as was necessary to reduce combined plan cost to a targeted amount
  - Target for fiscal year 09-10 is 14%
  - Surplus was too low to meet that target so the base cost is 17.14% of payroll
- Once surplus is exhausted, amortization will move to 30 years
- Recognizing unused sick leave will result in a plan that is less than 100% funded
- In order to isolate the impact of the amortization change from that of purely including the unused sick leave we show an intermediate step where the base valuation results are amortized over 30 years
  - This revised base cost is 20.05% of payroll

July 1, 2009 Results ($ in millions)

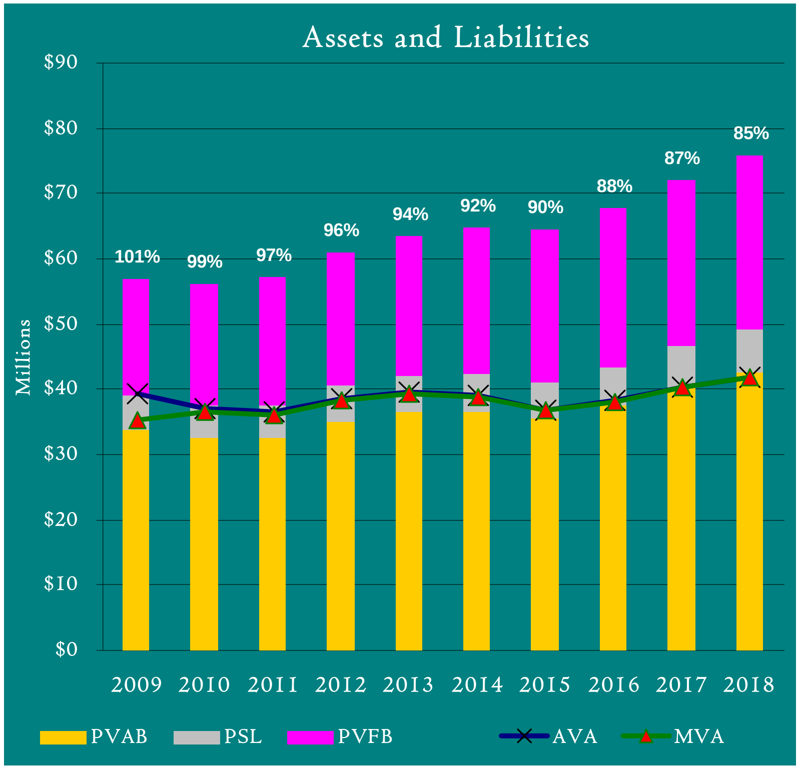
Leave Recognized Amortization	No Leave Traditional	No Leave 30 Year	w/Leave* 30 Year
Actuarial Accrued Liability	$ 39.04	$ 39.04	$ 40.03
Actuarial Value of Assets	$ 39.35	$ 39.35	$ 39.35
Unfunded Actuarial Liability/(Surplus)	$ (0.31)	$ (0.31)	$ 0.68
Funded Ratio	101%	101%	98%
Normal Cost of Benefits Accruing	19.59%	19.59%	19.56%
Amortization of Surplus	(3.16%)	(0.25%)	0.54%
Expense	0.71%	0.71%	0.71%
Total Contribution	17.14%	20.05%	20.81%
Less Member Contribution	7.00%	7.00%	7.00%
Net COG Contribution	10.14%	13.05%	13.81%
Number of Amortization Years	0.48	30	30

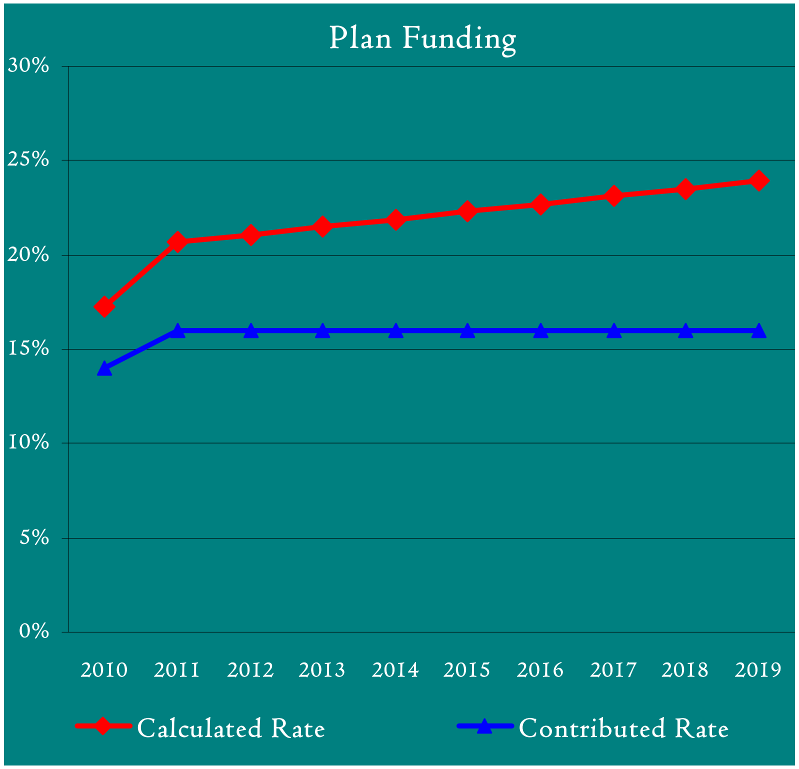
* Option 3 - Capped service with 60 month treatment

Cost and Timing Concerns

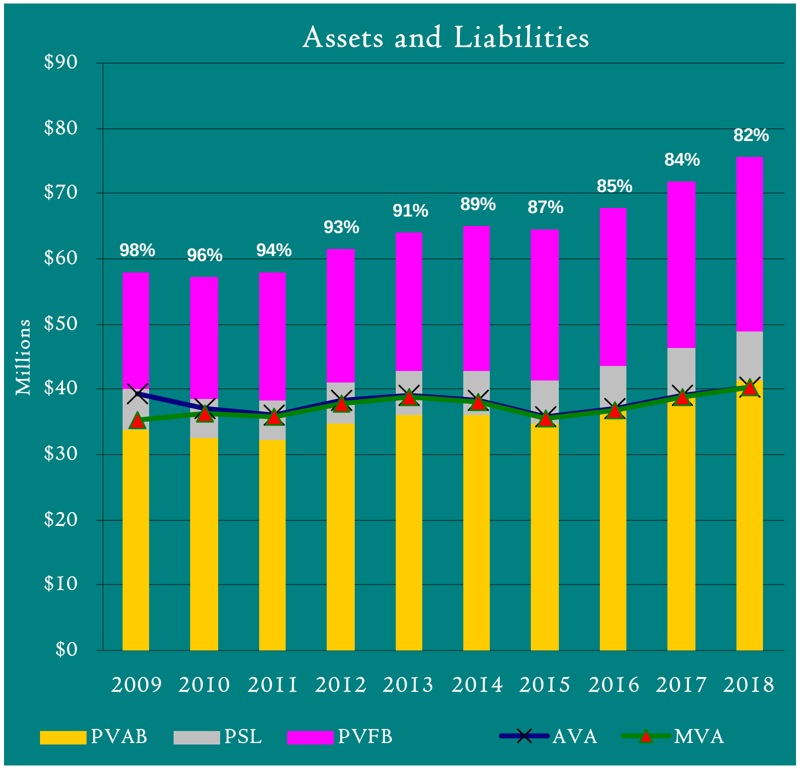
- Apparent cost of including sick leave
  - Thus the cost of including unused sick leave under the proposed parameters is 0.76% of payroll
  - Moving from a plan that is in a surplus position to one that has an unfunded liability has a cost impact of 2.91% of payroll
  - Thus, on paper, the move to recognize unused sick leave appears to have an overall impact of 3.67% of payroll if enacted with the 7/1/2009 valuation
- Timing of recognition
  - As of the 7/1/2009 valuation date, the sick leave was still uncapped
  - If making the change to recognize unused sick leave with this valuation we should properly include all unused sick leave which would result in an estimated COG contribution rate of around 15.79%
  - May make sense to delay formal recognition in the valuation until 7/1/2010 to coincide with the change in sick leave methodology
  - COG can still make the additional contribution this fiscal year in anticipation of the coming change

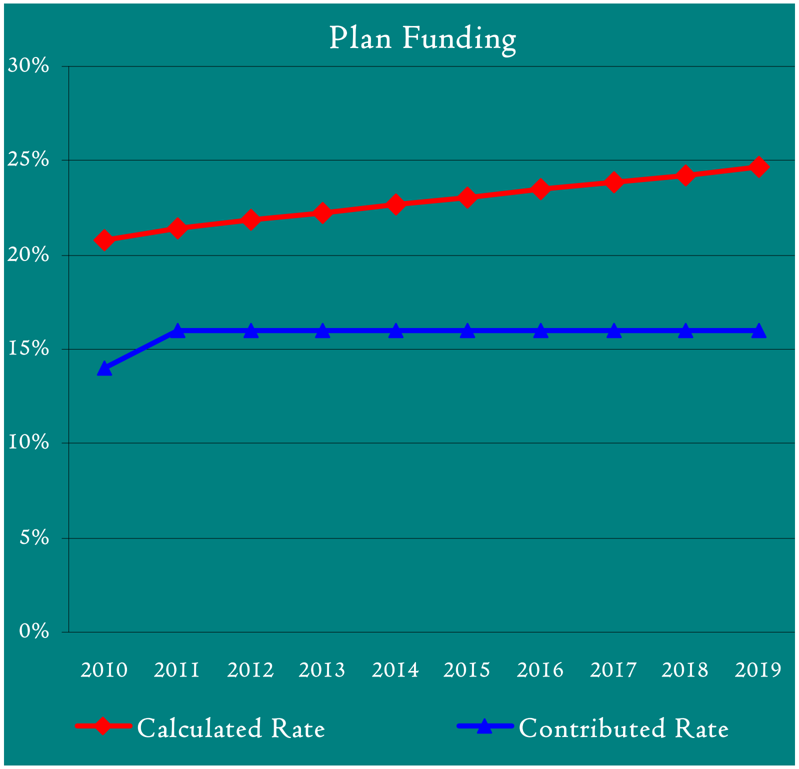
Future Trend Assuming 7% Return After 18% in Current Fiscal Year And One More Increase In Contributions BASE VALUATION





Future Trend Assuming 7% Return After 18% in Current Fiscal Year And One More Increase In Contributions WITH UNUSED SICK LEAVE





CHEIRON

Sample of Unused Sick Leave
for Metro COG memo

Currently

Retiree salary last year. $95,000
Sick leave applied (2,400 hours, minus 240), 2,160
2,160 hours is equivalent to nine month of service
Value of accrued sick leave applied to final year of salary, $71,250 (9/12 x $95,000)
Final year of salary for pension calculations ($95,000 + $71,250), $166,250

	without S/L	with S/L	factor to use	with S/L
Salary last year	$95,000	$166,250	1/3	$55,417
Salary year -2	$90,000	$90,000	1/3	$30,000
Salary year -3	$85,000	$85,000	1/3	$28,333
High 3-Year Average	$90,000			$113,750
80% High 3-yr Benefit	$72,000			$91,000

Under Proposed Option 3

Retiree salary last year. $95,000
Sick leave applied (1,000 hours, minus 240), 760
760 hours is equivalent to four month of service
Value of accrued sick leave applied to final year of salary, $31,667 (4/12 x $95,000)
Final year of salary for pension calculations gets split treatment:
$95,000 is part of the usual three-year averaging process
$31,667 is treated as if part of a five-year average

	without S/L	with S/L	factor to use	with S/L
Addition for unused S/L		$31,667	1/5	$6,333
Salary last year	$95,000	$95,000	1/3	$31,667
Salary year -2	$90,000	$90,000	1/3	$30,000
Salary year -3	$85,000	$85,000	1/3	$28,333
High 3-Year Average	$90,000			$96,333
80% High 3-yr Benefit	$72,000			$77,067

QUESTIONS/COMMENTS ON PENSION

There were 20 postings received. Six are test/blank pages, seven came from one person and six from other individual employees.

The following questions/comments were posted.

1) *I know that this has been raised before, but is there any way to "grandfather" in the employees eligible for retirement before July 1, 2010 and have another "sick leave" option kick-in after that? I am really concerned that too many people may retire at the same time. Some thought would have to be given to how this would need to be done (i.e., don't add any hours accrued after June 30, 2010, and so on). I would assume that many of these employees are at the top of their pay grades and are not eligible for significant pay increases, especially if no one will be getting them anyway given the current situation. Therefore, if they were to work for another year or two and retire then, it would cost COG roughly the same as if they were to retire today (their pension calculation would probably not change very much). It would be much less painful that way in terms of all the hard work and institutional knowledge that we would lose.*

RESPONSE: Grandfathering is similar to option one and is also under consideration. The impact of potential retirements has been reviewed carefully along with issues you have raised. Though this may likely result in about four retirements, we understand the transition issues this may create. We have started discussing with individual directors the impact on their departments and we will work closely with them on strategies to ensure smooth transition should the COG Board adopts changes to the sick leave policy.

2) *I would just like to reiterate Mayor Davis' request to add to the list of options a sick leave cash-out--particularly given the information that other jurisdictions receive this benefit. Although Mayor Davis made this point twice, there was never a sufficient response in my mind given by COG management. I would also like to make the point that while I agree with eliminating the sick leave accrual benefit for the pension, every decision should be made in mind with the salary and benefits package in total. Most COG planners make quite a bit less than their local jurisdiction counterparts. We do not receive a COLA (which is truly outrageous--regardless of the history of the policy). We do not receive comp time (the answer provided by management to this issue during the meeting was not sufficient in the least). The removal of any existing benefit should be measured against the package as a whole, which as it stands, is deficient in many respects when compared*

with the rest of the market in the region. If COG wants to retain younger, highly skilled employees, this will need to change.

RESPONSE: We will discuss Mayor Davis' suggestions during the next meeting. Please note a majority of members surveyed use sick leave to add towards "service credits" but not cash out value of sick leave. Of COG members surveyed Arlington County provides a payout of 30% of their balance above 100 hours. Those under the Virginia Retirement System like Loudoun County pay 25% of accrued leave not to exceed $10,000.

3) *I don't have a question, per se, but a concern. I believe this issue represents a slippery slope. The MWCOG benefits package, including compensation, is not competitive with those of our colleagues throughout the region. The pension is/was an aspect of the benefits package that makes/made working at COG attractive. As decisions are made to chip away at the pension package, as well as other benefits, COG will begin (or some would argue, continue) to lose good employees. Many of the local jurisdictions are concerned about employee retention and attempt to offer attractive options to current and future employees to stay with their jurisdiction/organization. COG does not seem to reciprocate this sentiment. And these things are possible in any economic climate. (Sometimes a simple "thank you" and other sentiments of recognition are sufficient). I am concerned that the trend of under-valuation of COG employees (represented by inequities in compensation, tampering with benefits, and withholding performance increases) will soon manifest itself in reduced employee morale and tenure.*

RESPONSE: COG's pension benefit even without the sick leave is a very generous plan as compared to several our member jurisdictions and other similar organizations. COG has also performed regular market surveys using the above benchmarks and these surveys reveal that salary ranges for most of our positions are competitive. The benefits are also similar to the job market we are competeting with. Just like many organizations in the region and all over the country we share your views on the challenges we have as it relates to freezes on merits and other salary increases. Prior to the current economic downturn, COG provide annual increases to salary compensation averaging more than 4 percent and provided periodic market rate adjustments in lieu of a COLA. Despite COG's financial challenges we continue to value the COG staff and their contributions to the region. We continue to sponsor a wide-range of low-cost and no-cost events and activities that seek to recognize and reward employees.

4) *What concrete steps is management going to take to address the sizable decrease in staff morale (and likely decrease in workforce productivity) that has resulted from the following recent events: 1) Pension meeting (4/14/10)*

> *where staff voiced frustration that they were inadequately informed about the options presented to them? 2) Inter-organizational scheduling conflicts caused by staff meeting (4/20/10) occurring on the day of the Federal Certification Review of the TPB. (This Certification Review is a federal requirement where DTP had no control over the schedule - it seems strange to me that COG held an all-hands staff meeting on this very same day). 3) Discussion at staff meeting (4/20/10) of "toughing out the recession" for another year - leading many staff to believe that this there will not be any merit-based or COLA-based adjustments to salaries for the second year in a row. The combination of these events, and the matters discussed at them, leaves a bleak feeling for many staff about their workplace. I've noticed over the past week that overall morale is low and cynicism is extremely high. Acknowledging that addressing many of these difficult issues is necessary in spite of the unpleasant nature of the discussions, I would like to know what steps management is planning to take to counterbalance all of this frustration? Thanks very much for your response.*

RESPONSE: The issue of morale was also addressed in the previous question/comment. Regarding 1) notice to employees, this matter has been before the PPAC and employees more about one year with increased discussion with each meeting. The level of analysis required of management and consultants made it impossible to provide the information prior and management chose to deliver the information first to PPAC members and provided it to employees as quickly as possible. Regarding 2), the conflict with the certification review meeting was regrettable but not entirely unavoidable. Management selected the staff-wide pension meeting several weeks ago and was not made aware of the certification meeting by staff, however, the certification meeting required participation by a limited number of transportation staff and management was advised by senior transportation staff that the schedule conflict did not hamper the certification review. Regarding 3) COG is not immune to the financial conditions affecting our ability to provide salary increases. COG is fortunate that we do not have furloughs, layoff, termination of programs and similar unfortunate situations. However, management has to be upfront with the staff on where we are on issues such as these so staff can plan ahead. Management continues to believe that the temporary though necessary limitation on compensation increases is preferable to agency-wide staff reductions or furloughs. As quickly as revenue projections allow, management will reinstate COG's pay-for-performance merit salary increase and other compensation actions. Our inability to provide merit increases last year or perhaps this year certainly is one that is not easy as we know the financial difficulties this causes. We hope that employees can understand and continue to provide the best service to our region despite financial challenges.

5) *In the third paragraph on page 6 of the Executive Director's April 14th memorandum to the COG Pension Plan Committee it is stated that many of the ERISA rules and IRS Code that legally protect plan participants against reductions in benefits that have already accrued do not apply to a "government plan" and the COG's retirement plan appears to qualify as a government plan. Notwithstanding COG's retirement plan apparent qualification as a government plan, it has been COG's long standing and consistent Pension Plan policy to follow ERISA rules and IRS Code regulations even though this may not be required legally. This long standing COG Pension Plan policy is especially important because COG's retirement plan is not a supplement to Social Security, but rather a replacement for Social Security. By adopting option #3 the Pension Plan Administrative Committee and COG would not be following this long standing Pension Plan policy to follow ERISA rules and IRS Code regulations. Wouldn't plan participants find this to be a worrisome precedent?*

RESPONSE: COG has not blindly adopted every ERISA requirement. Generally, the ERISA rules it has elected to follow voluntarily are the ones that protect spouses, guidelines such as prudence, diversification and reasonable cost. It did not adopt the anti-cutback rule, for example. One of the reasons Congress elected to exempt government plans from ERISA was presumably that government plans have special needs for flexibility due to their special funding sources.

We do not believe this establishes a dangerous precedent. The normal retirement benefit long promised to employees - 80% of final average pay - will not be in any way affected. The decision to address this issue was not undertaken lightly and a lot of thought has gone into crafting a solution that is fair and equitable to all participants. We recognize that some participants will regard this as unfair to them, but we believe it is not unfair to the plan as a whole, or to most participants, and it is unrealistic to expect that COG can continue to provide this supplement to new employees. It seemed unfair in the extreme to ask a majority of staff including new employees to finance a pension enhancement that benefits only a few senior well-paid employees.

6) *Did our plan actuaries prepare a report or other written documentation regarding the projected costs of the current plan sick leave benefit and contribution forecasts for management options 1, 2, and 3? Was this report or write-up shared with Employee Pension Plan representatives and did the Employee representatives have the opportunity to use this information to develop and offer alternative options for dealing with the pension sick leave benefit?*

RESPONSE: Cheiron performed the actual financial analysis on each of the sick leave options identified by management. Management has the right to forward a recommendation to the PPAC purely on the basis that it is in COG's best interest to review the existing sick leave and its impact to the overall health and future of the pension funds. It would be irresponsible not to address the issue that may impact our commitment to ensure a financially stable pension for all employees, regardless of how difficult this issue may be. The PPAC and employees as a whole have had an opportunity to comment in open meetings and provide comments on COG's intranet bulletin board.

7) *Does the Pension Plan Administrative Committee or COG have any insurance to cover any and all claims, losses, damages and expenses arising from any action or failure to act in connection with the execution of the duties of the Pension Plan Administrative Committee? If so, what are liability limits of this policy? If as a class the plan participants sued the PPAC for negligence for the way in which the sick leave benefit was incorporated into the plan, would our insurance cover the costs of continuing the sick leave benefit for current employees? Is there any liability on the part of our Pension Plan advisors for these potential costs/losses?*

RESPONSE: Yes, COG has liability insurance. The Policy clearly covers "Fiduciary Claims," and this would include a lawsuit by an employee or a group of employees successfully establishing that a covered employee committed a negligent act, error or omission in the administration of the Plan. The COG official or employee would be covered if he or she was acting properly within the duties assigned him or her.

Please note the inclusion of sick leave was among many suggestions coming from pension participants back in 1999-2000. Several enhancements on the pension were taken in late 2000 based on collective efforts by employees, PPAC, and COG Board of Directors at a time where it felt it needed to apply the surplus. Adoption of plan amendments under this collective process does not have legal bearing. With these enhancements comes responsibility to monitor and ensure that the pension plan as a whole is financially stable. Unlike other pensions that are in the brink of collapse, high unfunded liabilities, and in certain case bankruptcy, the COG pension plan is in a much better position. However, now that we see the likely impact of sick leave to the stability and its future financial health, we reiterate the importance of acting proactively to ensure the best interest of all participants and the pension funds. Though an employee has the right to take legal action on any matter he/she feels has merit, management and PPAC will continue to ensure the overall financial health of the plan regardless of how difficult this issue may be and its potential risk such as what you have alluded. What we see as negligent is to not on act now that we have identified a serious issue on the application of sick leave.

8) *Recommendation 2 on page 8 of the Executive Director's April 14th memorandum to the COG Pension Plan Committee states management's belief that it was not the intent of the COG Board to provide credit for sick leave accrued prior the September 2000 approval of the sick leave pension benefit. I believe a reasonable reading of the September 13, 2000 COG Board Resolution R35-00 makes it clear that because of the pension plan surplus at that time, the Board was looking to find "balanced and creative ways of enhancing pension benefits" to reduce "the $6.3 Million of accrued funds that exceeded current plan funding obligations" that existed even after annual Employer contributions to the funding plan had been reduced to 2.5% or less. It appears reasonable that the intent of the Board action was to reduce the plan surplus by extending enhanced benefits to plan participants. Thus, in my opinion it is not reasonable to assume that the Board did not intend to provide credit for sick leave accrued prior the September, 2000. If the sick leave accrual were only intended to start from September, 2000 then it would be a least 2.3 years (13 sick days/per year * 2.3 years = 240 hours of sick leave) before the plan would have even the slightest impact on reducing the $6.3 million plan surplus and even that would assume that no one got sick during those 2.3 years. Further, the reasonable expectation by employees is that once you give an enhanced benefit you can't take it away, you can only freeze it going forward. Stating that it was not the intent of the COG Board to provide credit for sick leave accrued prior to September 2000 is not what a reasonable person would assume.*

   Could an option that froze current employee sick leave accruals through June 2010 (minus 240 hours) and calculated the employee's sick leave benefit by multiplying this sick leave accrual by one–twelfth of the participant's compensation in the year of retirement and dividing this dollar amount by five be analyzed?

RESPONSE: We have asked Cheiron to provide an estimate on this option. Cheiron estimates that the impact would be an increase of 1.57% of payroll over the current valuation results which exclude any unused sick leave. NOTE: The 1.57% increase represents the pure cost of including the sick leave in that fashion. The impact on the COG contribution rate would be an additional 2.91% higher than this due to the issue of moving from an overfunded to an underfunded position. Thus the increase over the "current valuation results" is 4.48% but the 1.57% figure is comparable to the figures otherwise discussed in the memo. While this option is possible, the management strongly recommends option three to ensure that COG employees who are not largely affected by this will not pay extra contributions for a benefit that favors a few highly-paid senior employees.

9) *I agree with those on the pension committee who feel that the current sick leave policy for retirement is excessive, unsustainable and should be ended. I would prefer to see employees be give the choice of having sick leave applied to time of service or paid to at a nominal percentage (like 30-40%). Sick leave is a wonderful benefit to have. Those who are fortunate to not have to use it, should receive some credit for it when retiring, but not a huge financial windfall. As a younger employee (25+ years from retirement), I don't think it is fair to us to take on the burden of having to pay an additional 3% for this excessive benefit that we will never receive. I also not want to see any of my coworkers who are close to retirement be negatively impacted financially because they based their retirement investment decisions on this policy. I would be interested to know how many near retirement employees even knew about this benefit and were counting on it as part of their retirement planning. I think the pension committee has a difficult decision ahead of it and doubt there will be a solution that is fair to all employees while still protecting our pension plan.*

RESPONSE: This is certainly a tough decision requiring careful thought and balance. Management agrees with you that it would not be fair to ask employees to pay additional 3% for a benefit that will not benefit a majority of the staff. This is one of the main reasons that we are strongly recommending option 3. It does not fully take away the benefits to those who have earned more than the recommended cap. Rather, we are recommending a solution that we find reasonable, sustainable and financially feasible for everyone.

10) *COG generates annual revenues from its equity share in the ownership of our office building and from interest on reserve funds. Could a portion of these revenues be used to mitigate the costs of the sick leave benefit in COG's retirement plan? If pension-related sick leave accruals are frozen as of July 1, 2010, the impact of using a portion of these revenues would decline over time.*

RESPONSE: COG has a general reserve fund with Board adopted policies and procedures for contributions to the reserve and appropriate use of reserve funds. The COG Board would have to approve reserve fund use for this purpose. Management believes this use would be inconsistent with the policy as management has recommended a reasonable approach to address this issue on a conservative, incremental approach to maintain the fiscal stability of COG's pension plan. Management will not recommend use of the reserve fund for this purpose.

11) *At the April 20, 2010 COG-wide meeting the financial advisor to our plan presented a Pension Plan Asset Reconciliation that showed an asset value of $4,791,391 (as of 12/31/09) in the Plan's NY Life Pension Account. I questioned whether or not this was really a Pension Plan asset and did not get what I believed to be a satisfactory answer. The Plan actuary said that she does not include this account as an asset in her actuarial projections, but because this account included some "participating contracts" it did generate some revenues for the Plan. I still have my doubts that this account is truly a plan asset. Nonetheless, assuming that this NY Life Pension Account is a plan asset and the revenues generated from this asset are not included the actuary's projections, could the earnings from this source be dedicated to covering the costs of the sick leave benefit in COG's retirement plan? At a minimum, if the NY Life Pension Account is truly a plan asset, I would like to ask for a clearer explanation of what is included in this account and what are our expected earnings for this account that might be used to offset the cost of the sick benefit in the plan.*

RESPONSE: We have reviewed the issue of whether or not the NYLIM pension account should be accounted for as an asset. NYLIM has confirmed that it is not unusual to see varying treatment of the pension account. They provided the following observations regarding other clients using the same NYLIM product as COG. They said that some declare the pension account as an asset and some do not. They stressed that this determination is made by each client, not by NYLIM.

Cheiron is not including either the assets or the liabilities related to the pension account in their actuarial valuation of the COG pension plan. As such, Bolton Partners will use the same approach so that the plan will have reporting consistency from its investment consultant and its actuary. Instead of separating out the pension account on the asset reconciliation page of Bolton's report, it will modify its reports to exclude the pension account.

The pension account represents a claim against fixed income securities in the NY Life general account. Both the pension account and the fixed dollar account are being credited with interest at the contract earnings rate. The contract earnings rate for each year from 2003 to 2009 ranged from 6.36% to 7.17%.

The income generated by the NYLIM pension account cannot be distributed in any way that does not comply with the terms of COG's contract with NY Life. The returns from this account have been a portion of the investment return reported for the COG plan and any diversion of these returns could mean that the plan falls short of its 7% return goal. If this occurs, the actuary would have to reduce the earnings assumption which would result in a higher plan cost. For this reason, we believe that the income generated by the NYLIM pension account should continue to be used as a source of payment for the plan's basic benefits and should not be diverted to other uses.

12) What is the rationale for leaving uncapped the pension-related sick leave benefits for employees who reach the retirement eligibility on age before reaching 25 years? It would appear that leaving uncapped the sick leave benefits for these employees would impact future plan costs and would be just as difficult to predict in making actuarial projections of future plan funding requirements as the current sick benefit provision in the plan for employees with 25 years or more of benefit service.

RESPONSE: The proposal covers leave for anyone's unused sick leave to be capped. In performing the cost estimates, Cheiron assumed that sick leave would be capped in all cases. Of course, those who have not yet accrued the full 25 years towards a retirement benefit are less likely to have a large unused sick leave balance in any event.

13) I find the wording for option #3 on page 7 of the Executive Director's April 14th memorandum to the COG Pension Plan Committee somewhat confusing and imprecise in relation to the wording of the sick leave benefit as currently stated in the Pension Plan document. This imprecision could lead to alternative interpretations on how the computation for option #3 should be made. The third bullet states that "For sick leave pension accrual computations, spread accrued sick leave (minus 240 hours) over the high-five average salary rather high three-year average salary, the computation which existed prior to April 2004." I am not sure what is exactly meant by the wording "spread accrued sick leave (minus 240) over the high-five average salary". I believe the intent of option #3 is to calculate the accrued sick leave benefit of a plan participant, who retires on his or her normal retirement date, by subtracting 240 from the number of unused hours of sick leave the participant has accumulated (from September 2000 to July 2010) multiplying this number by one–twelfth of the participant's compensation in the year of retirement and dividing this dollar amount by five. Am I correct in this belief? Could illustrative examples of the intended computations for options 1, 2, and 3 be provided to and discussed with plan participants before acting on a plan amendment?

RESPONSE: An example on how Option 3 is provided as Attachment B. Option 1 is grandfathering the existing policy and examples were provided in earlier memo.

14) *Will employees have the opportunity to review the exact language of any plan amendment proposal well in advance before it goes to the COG Board for adoption?*

RESPONSE: The proposed amendment language is included in the draft Resolution (Attachment D) provided to the PPAC and to all employees.

Resolution R29-10
May 12, 2010

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

RESOLUTION AMENDING COG'S PENSION PLAN TO CREATE SPLIT DISTRIBUTION

WHEREAS, the Metropolitan Washington Council of Governments (hereinafter called "Council") has established and maintains the Metropolitan Washington Council of Governments Pension Plan (hereinafter called the "Plan") for its employees; and

WHEREAS, an amendment and restatement of the Plan has been prepared, effective July 1, 2008, to incorporate amendments through that date and has been submitted to the Internal Revenue Service for a determination that it remains a tax-qualified retirement plan; and

WHEREAS, the Plan generally provides that a Participant who retires may elect to receive a distribution either in the form of a lump sum or in the form of an annuity; and

WHEREAS, the Council wishes to provide as an additional optional form of distribution the right to elect to receive up to 50% of the value of a Participant's retirement benefit in the form of an immediate lump sum and the remainder in the form of an annuity; and

WHEREAS, Section 10.01 of the Plan provides that the Council may amend the Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS THAT:

Section 2.25 shall be amended to correct the reference to "Section 5.02" therein to "Section 5.04."

Section 5.08 of the Plan shall be amended to add a new subsection (c) to read as follows, effective as of June 1, 2010:

> (c) Any Participant entitled to elect to receive benefits under this Article V may elect instead to receive the voluntary cash-out payment provided under Section 9.05(b), subject to the requirements stated therein, but with payment of no less than fifty percent (50%) of the amount deferred and paid in the form of any annuity otherwise available to the Participant under the terms of the Plan.