

## **Metro Riders' Advisory Council**

**January 5, 2011**

### **I. Call to Order:**

Mr. DeBernardo called the January 5, 2011 meeting of the Metro Riders' Advisory Council to order at 6:35 p.m.

The following members were present:

Frank DeBernardo, Chairman, Prince George's County

David Alpert, D.C. Vice-Chair, District of Columbia

Dharm Guruswamy, Virginia Vice-Chair, At-Large

Victoria Wilder, Maryland Vice-Chair, Montgomery County

Kelsi Bracmort, District of Columbia

Jamie Bresner, City of Alexandria

Sharon Conn, Prince George's County

Kenneth DeGraff, District of Columbia

Penny Everline, Arlington County

Chris Farrell, Montgomery County

Chris Schmitt, Fairfax County

Carl Seip, At-Large

Lorraine Silva, Arlington County

Patrick Sheehan, At-Large/Accessibility Advisory Committee

Deborah Titus, Fairfax County

Carol Carter Walker, District of Columbia

Ronald Whiting, Montgomery County

Diana Zinkl, District of Columbia

### **II. Public Comment:**

Mr. DeBernardo then opened the floor for comments from members of the public.

Kurt Mueller noted his concerns with Metro's recently implemented bag inspection policy.

Thomas Nephew provided the Council with an online petition that had been signed by over 600 individuals who were opposed to Metro's random bag inspection policy. He noted that of the 600 people who signed the petition, over 80% said that they would use the Metro system less if the random inspections continued.

Linda Lee provided comments regarding the recent change in service on the 13A/B route, in which service was taken over by buses on the 7 and 16 lines. She said that the adjustments aren't working, that the bus operators are not familiar with the routes and there had not been sufficient training for operators prior to the previous month's schedule and route changes. She said that she thinks that the service changes are geared towards Virginia commuters and that little thought was given to riders that have to reverse commute from D.C. into Virginia, and that this may be a civil rights issue.

Jillian Nemec acted out a skit to express her opposition to the bag inspection policy and her view that the policy, as being implemented, would not be effective.

Jeff Benson spoke in opposition to Metro's random bag inspection program.

Pat Elder of the D.C. Bill of Rights Coalition spoke in opposition to the Metro Transit Police's random bag inspection program, and cited concerns about the cost and effectiveness of such programs.

Sue Udry asked the Council to clarify with the police what happens when someone refuses a bag inspection. She noted that during the presentation at Monday's meeting, the police said that such an individual would be subject to further observation, which called into question the assertion that the bag inspection program was truly voluntary.

Dr. Bracmort arrived at 6:49 p.m.

Johnny Barnes of the American Civil Liberties Union explained his opposition to the bag inspection program and noted that democracy and freedom are fragile and that any intrusion on civil liberties is a diminishment of freedom.

Mr. DeBernardo thanked members of the public for coming to provide their comments.

### III. Question and Answer Session with Transit Police Chief Michael Taborn:

Mr. DeBernardo then turned the floor over to Metro Transit Police Department Chief Michael Taborn. Chief Taborn said that the Metro Transit Police Department is concerned that if it didn't use every tool available to fight possible terror attacks, including utilizing the random bag inspection program, that the department wouldn't be performing its "due diligence."

Ms. Zinkl asked Chief Taborn what would happen if someone left a Metrorail station to avoid a bag inspection and instead boarded a Metrobus. Chief Taborn responded that the individual would be observed by Transit Police Officers.

Mr. Alpert asked whether any information about individuals who submit their bags for inspection would be recorded or maintained by the Transit Police or by any other law enforcement agency. Chief Taborn said that information would not be collected or maintained.

Mr. Schmitt asked why the police aren't using a method that does not impinge on a constitutional right to fight possible terrorist attacks, such as sending out extra police patrols within the rail system. In response, Chief Taborn said that the Transit Police does not feel like the bag inspection program violates the 4<sup>th</sup> Amendment, and added that MTPD is also increasing its presence in the Metro system – deploying search dogs and paying greater attention to rowdy juveniles.

#### IV. Introductions:

Noting that there were several new members of the Council at the meeting, Mr. DeBernardo had members introduce themselves.

#### V. Metro's Pay Phone Program:

Al Pegram from Metro's Department of Information Technology gave a presentation on the future of Metro's pay phone program. He noted that while pay phones were previously a money-making venture for Metro, they no longer generate a profit due to increased cell phone use. He explained that Metro expected this trend to continue as more of the rail system was wired for cell phone service.

Mr. Pegram explained that Metro was looking at several options with regards to maintaining pay phone service:

1. Leaving all existing phones in place.
2. Leaving only profit-generating phones in place.
3. Maintaining one TTY-capable phone at each station.
4. Eliminating all pay phones.

Following Mr. Pegram's presentation, Mr. DeBernardo opened the floor for questions.

There were several questions from members regarding Mr. Pegram's presentation, including:

- The Accessibility Advisory Committee's recommendation (not yet provided);
- The legal requirement for Metro to maintain pay phones (not required, however, if Metro has phones, one phone at each location must be accessible to individuals with disabilities);
- The location of TTY-equipped phones, if that was the option chosen (at station entrances);
- The location of "profit-generating" phones currently in the system (most are clustered at two stations in the District of Columbia);

- The number of 911 calls made from these phones (not known).

Mr. DeBernardo then asked members to note their preference from among the options put forward in Mr. Pegram’s presentation.

	Description	Number in favor
Option 1	Maintain all existing pay phones.	1
Option 2	Maintain only profit-generating phones.	2
Option 3	Maintain one TTY-equipped pay phone at a standard location at each rail station.	11
Option 4	Eliminate all pay phones.	3

V. Random Bag Inspection Policy

Mr. Alpert provided the Council with an overview of the public meeting that the Council held on January 3<sup>rd</sup>, and noted that the overwhelming majority of the people attending were opposed to Metro’s random bag inspection policy, citing constitutional and privacy issues, along with noting that the policy wouldn’t actually deter or catch terrorists or prevent attacks. He said that members of the Metro Transit Police Department also provided a presentation on the program. Mr. Alpert noted that, following the presentations, there was discussion among Council members present with the consensus to develop a resolution to be discussed at this evening’s meeting.

Mr. DeGraff moved that the Council transmit the following statement to the Metro Board of Directors concerning the bag inspection program:

*“The Metro Riders’ Advisory Council finds that WMATA’s currently enacted program for random bag searches is an ineffective, inefficient method for deterring terrorist attacks, which comes at the cost of riders’ constitutional protections against unreasonable searches. The RAC requests that the WMATA Board immediately direct that the program be suspended, and that WMATA staff conduct further work to identify means that further the goal of deterring potential attacks without violating civil liberties, and which also take account of other pressing public safety needs currently going unaddressed, such as improving police response time to reported incidents and increasing police presence on trains and in stations. As part of these efforts, the Board should further direct that there be strong public involvement, including by the RAC and other relevant parties such as the American Civil Liberties Union and rider advocacy groups, in development and implementation of any such security activities.”*

This motion was seconded by Mr. Alpert.

Ms. Zinkl noted that she had concerns about the cost of the program, especially the cost to Metro of any litigation stemming from the program. She added that some of the items put forward in the proposed resolution are “above the RAC’s pay grade.” Ms. Zinkl said that she supported the

resolution listed as put forward by Mr. Alpert because it is the only one that asks for Metro to hold a public meeting on the topic.

(The language circulated by Mr. Alpert prior to the meeting read as follows:

*The WMATA Riders' Advisory Council (RAC) feels that the controversial program of bag searches was implemented without needed debate by the Board of the significant policy issues or dialogue with riders and civil liberties organizations. Therefore, the RAC asks the Board to halt the program of random bag checks until there can be a public hearing before the Board and a dialogue between WMATA staff, civil liberties groups and regional rider advocacy groups to determine an approach to safety that strikes an appropriate balance among terror prevention, response to non-terror incidents, and riders' civil rights, and which maximizes the effective use of police resources.)*

Mr. Seip said that he didn't feel that it was the Council's place to make a judgment on either the constitutionality or effectiveness of the bag inspection program. He said that the Council's role is to advise the Board of Directors.

Mr. Alpert said that he has concerns about the program's effectiveness. He said that he is concerned that the police are asserting that the program is justified because anything that could increase safety is justified, despite the numerous concerns about the program. He said that he could make changes to his resolution if the Council preferred it over the other options.

Mr. Guruswamy said that he was concerned that the Board had unconditionally delegated security responsibilities to the police chief and asked that this concern be address by any resolution the Council approves.

Mr. Sheehan said that there has not been any discussion about how individuals with disabilities would be affected by this program and that he supported Mr. Alpert's proposed motion because it called for additional dialogue on this topic.

Ms. Titus said that she isn't a security expert and isn't comfortable making such a strong statement as put forward by Mr. DeGraff. She said that she liked Mr. Alpert's proposed resolution because of its emphasis on public input.

Mr. DeGraff said that the Council had previously asked the Board to hold public meetings about this program back in 2008 and it didn't take any action. He said that the Council needs to employ the strongest language possible to communicate its and the public's concerns about the program.

Ms. Everline said that she felt that the Council needed to make a strong statement that included language about civil liberties concerns.

Dr. Conn said that she agreed with the resolution put forward by Mr. Alpert and that Metro staff needs to hold a public hearing. She added that she had concerns about police searching for items other than explosives, the possibility of racial profiling in the program and that she wanted more information about what would happen regarding searches of Metrobus passengers.

Mr. Alpert said that everyone seemed to agree that it is not appropriate for Metro to continue this program at the present time. Mr. Guruswamy added that the Council needed to advise the Board on the feedback it has gotten from riders, even if that feedback didn't constitute a scientific sample.

Ms. Zinkl said that she would be concerned for the Council to tell the Board to simply stop the program – that such a statement is beyond the Council's authority. She noted that there is value in a having a more in-depth public process.

After further discussion, the Council voted to send a statement containing the following principles to the Board of Directors:

- The bag inspection program should be stopped at this time;
- Metro should hold a public hearing on the program;
- Civil liberties and other groups should be involved
- Metro should work to analyze program's effectiveness against civil liberties concerns;
- Any analysis should address whether this program takes away resources from other security needs – such as platform patrols, etc.
- The Council is concerned about the Board's delegation of policy decision-making to the General Manager or Police Chief - such authority should only be delegated if specific/credible threat.

*In favor:* Mr. DeBernardo, Mr. Alpert, Mr. Guruswamy, Dr. Bracmort, Mr. Bresner, Dr. Conn, Mr. DeGraff, Ms. Everline, Mr. Farrell, Mr. Schmitt, Mr. Seip, Ms. Silva, Mr. Sheehan, Ms. Titus, Mr. Whiting, Ms. Zinkl

*Opposed:* Ms. Wilder

*Abstentions:* Ms. Walker

This motion was approved (16-1-1).

## VII. Questions Comments on R.A.C. and A.A.C. Chair Reports:

Mr. DeBernardo asked if there were any questions on the chairman's report. There were no questions. He also noted that the Metro Board of Directors established a committee to review Metro's governance at its December meeting.

VI. Election of Officers for 2011:

Mr. DeBernardo then said that the Council would conduct elections for officers for 2011.

*Chairman:*

Mr. Alpert moved to nominate Mr. DeBernardo for 2011 Council chairman. This motion was seconded by Ms. Walker. Mr. Sheehan then moved to close nominations for the office of Council chairman and approve Mr. DeBernardo's by acclamation. Ms. Walker seconded this motion. Without objection, Mr. DeBernardo was elected as the Council's 2011 chairman.

*District of Columbia Vice-Chair:*

Ms. Everline moved to nominate Mr. Alpert as the Council's 2011 District of Columbia vice-chair. This motion was seconded by Ms. Walker. Mr. Sheehan then moved to close nominations for the office of District of Columbia vice-chair and approve Mr. Alpert's election by acclamation. Ms. Walker seconded this motion. Without objection, Mr. Alpert was elected as the Council's 2011 District of Columbia vice-chair.

*Maryland Vice-Chair:*

Mr. DeGraff moved to nominate Mr. Farrell as the Council's 2011 Maryland vice-chair. This motion was seconded by Ms. Zinkl. Mr. Sheehan then moved to close nominations for the office of District of Columbia vice-chair and approve Mr. Alpert's election by acclamation. Ms. Silva seconded this motion. Without objection, Mr. Farrell was elected as the Council's 2011 Maryland vice-chair.

*Virginia Vice-Chair:*

Ms. Walker moved to nominate Ms. Everline as the Council's 2011 Virginia vice-chair. This motion was seconded by Dr. Conn.

Mr. Alpert moved to nominate Mr. Guruswamy as the Council's 2011 Virginia vice-chair.

Both Ms. Everline and Mr. Guruswamy made statements in support of their respective candidacies. Council members then voted by secret ballot for the office of Virginia vice-chair.

VII. Report on Internal Governance:

Ms. Wilder discussed two procedures that would be implemented by the Council to approve draft letters or statements. Mr. DeBernardo noted that this item had been generated from a discussion at the December Council meeting and said that he would like to implement this policy for a few months to see how it works.

Mr. Seip said that he wanted to ensure that there was a way to ensure that what was finally approved matches the spirit of what was voted on and approved at the meeting. Ms. Zinkl noted that she had concerns about approving items in concept that would then be drafted into a letter following the meeting, especially since this would not be done in public at a meeting, and the Council was created in the spirit of open decision-making.

Mr. Alpert noted that this approach could work well with items that were either time-sensitive or non-controversial. Mr. Guruswamy also suggested that the Council could give feedback via a straw poll in a similar manner as was done with the pay phone program earlier in the meeting.

VII. Report from Bicycle/Pedestrian Access Committee Meeting:

Mr. Alpert told Council members that Metro staff is working on a plan to improve bicycle and pedestrian access to Metrorail stations and had a meeting with the Council in December to discuss the study's recommendations. He noted that among the recommendations from the study discussed at that meeting for Metro to adopt a goal to triple bicycle mode share to rail stations (to 2.1%) by 2020 and quintuple it (to 3.5%) by 2030. He added that there was also discussion at that meeting for Metro to set goals for pedestrian access and access to Metrobus stops.

Mr. Seip moved for the Council to send a letter to the Board in support of Metro's bike mode share access goal to Metro station and to urge Metro to also look at pedestrian access to Metrorail stations and access to Metrobus stops. This motion was seconded by Ms. Everline.

Mr. Seip's motion passed without objection.

VIII. Formation of Committees for 2011:

Mr. DeBernardo said that he would like to get approval for the Council to establish a budget committee and has asked Mr. Seip to convene that committee. Without objection, this was approved.

Mr. DeBernardo then asked for approval for the Council to establish an elevator and escalator committee and has asked Dr. Conn to convene the first meeting of that committee. Without objection, this was approved.

Mr. Alpert moved to reconvene the Council's Bus and Long-Term projects committees for 2011, with Ms. Everline convening the Bus committee and Mr. Alpert convening the Long Term Projects Committee. Mr. DeGraff seconded this motion. Without objection, this motion was approved.

Mr. Pasek announced that Ms. Everline won the election for Virginia vice-chair.

IX. Adjournment:

Without objection, Mr. DeBernardo adjourned the meeting at 8:31 p.m.