

# **DRAFT FOR PUBLIC COMMENT**

## **Report on Governance of the Washington Metropolitan Area Transit Authority**



**Riders' Advisory Council**

**November 3, 2010**

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## Executive Summary

The Riders' Advisory Council (RAC) of the Washington Metropolitan Area Transit Authority (WMATA) conducted a study of the governance structure of the WMATA Board of Directors during the summer and fall of 2010.

There is a widespread perception among riders and the local media that change is needed at WMATA, and that WMATA's problems, along with the necessary change, includes the top: the Board.

This led to a number of outside studies of WMATA's governance structure. However, the RAC felt that these studies do not address the issue from the riders' perspective. The RAC therefore formed a special WMATA Governance Committee to examine the issues in detail and issue its own report.

The RAC is a 21-member body composed of riders from the District of Columbia, Virginia, and Maryland including three at-large members. RAC meetings and committee meetings are all open to the public. All RAC members can participate in all committees, including the Governance Committee.

The Governance Committee held 7 public meetings including four roundtables with current and former Board members and representatives of advocacy organizations. Based on the dialogue at the roundtables, the RAC believes that there is room for improvement of the current governance structure of the Board.

The RAC approved releasing this draft report for public comment at its meeting on November 3, 2010. It will hold a public hearing to solicit public input on November 17, 2010 at 7:00 pm in the committee room at WMATA headquarters, 600 5<sup>th</sup> Street, NW, Washington DC. Comments can also be emailed to [racomment@wmata.com](mailto:racomment@wmata.com). The RAC will review the public input and consider a final draft of this report at its December 1, 2010 meeting.

The draft recommendations include 6 broad, general recommendations with 23 specific recommendations. The general recommendations are:

1. The Board is analogous to a legislature and should include public officials.
2. The Board should set clear, high standards for its members.
3. The Board should focus on high-level policy and objectives.
4. The Board should act as a regional body rather than as individuals.
5. WMATA's top staff member should be a CEO rather than a General Manager.
6. Board decision-making should include a clear and accessible public input process.

The RAC believes that implementation of its recommendations will lead to a WMATA Board that focuses on policy issues, delegates day-to-day decisions to a chief executive, and is more accountable to WMATA riders and the public.

## Research into WMATA governance

### Existing discussions of governance

There have been a number of editorials in local newspapers, blogs and other media recommending possible reforms to WMATA's governance. Much of this interest stemmed from the June 2009 crash on the Red Line, which triggered substantial scrutiny of Metro.

For instance, the Washington Post published an op-ed by former Virginia Secretary of Transportation Pierce Homer recommending certain reforms.<sup>1</sup> Fairfax City Councilmember Dan Drummond made some suggestions on his blog, "The Corner Of..."<sup>2</sup> In its report, the National Transportation Safety Board (NTSB) recommended some governance reforms internal to the Board to enhance oversight over safety.<sup>3</sup>

In response to this debate, the Greater Washington Board of Trade (BOT) established a task force to study governance, which was cosponsored by the Metropolitan Washington Council of Governments (COG). That task force has held a number of meetings, mostly closed to the public.<sup>4</sup> They held one public meeting where individuals were allowed to speak for 3 minutes each,<sup>5</sup> and another to hear in more depth from representatives of the Riders' Advisory Council, the Accessibility Advisory Committee, ATU Local 689, the National Transportation Safety Board (NTSB), the Coalition for Smarter Growth, the Action Committee for Transit, and the Northern Virginia Transportation Alliance.<sup>6</sup>

In addition, the U.S. Government Accountability Office (GAO) was assigned in July 2009 to conduct a separate analysis of WMATA governance. That analysis is just getting underway. A representative from GAO attended three roundtables of the RAC's Governance Committee.

### Process of the RAC committee on WMATA governance

The RAC established a committee to examine the issue of WMATA governance in July 2010. The committee reviewed the existing written suggestions listed above, TCRP Report 85 (the "Public Transit Board Governance Guidebook"),<sup>7</sup> the report of the Board's 2006 WMATA Governance Task Force,<sup>8</sup> and the COG/BOT task force's posted list of resources.<sup>9</sup>

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<sup>1</sup> <http://www.washingtonpost.com/wp-dyn/content/article/2010/01/16/AR2010011602570.html>

<sup>2</sup> <http://councilmandan.blogspot.com/2010/08/metros-board-needs-shake-up-three-quick.html>

<sup>3</sup> <http://ntsb.gov/Publictn/2010/RAR1002.pdf>

<sup>4</sup> <http://www.mwcog.org/about/governancetaskforce/governancetaskforce.asp>

<sup>5</sup> [http://www.mwcog.org/about/governancetaskforce/Task%20Force%20Docs/070110\\_summary.pdf](http://www.mwcog.org/about/governancetaskforce/Task%20Force%20Docs/070110_summary.pdf)

<sup>6</sup> <http://www.mwcog.org/about/governancetaskforce/Task%20Force%20Docs/17%20sep%202010.pdf>

<sup>7</sup> [http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp\\_rpt\\_85.pdf](http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_rpt_85.pdf)

<sup>8</sup> [http://www.wmata.com/about\\_metro/board\\_of\\_directors/board\\_docs/101206\\_GTFcompiled.pdf](http://www.wmata.com/about_metro/board_of_directors/board_docs/101206_GTFcompiled.pdf)

<sup>9</sup> <http://www.mwcog.org/about/governancetaskforce/resources.asp>

The committee held meetings on July 28 and August 25, September 15, 20, 22 and 29, and October 20. All meetings were open to the public and four included a discussion with current and former Board members and members of advocacy organizations.

The following individuals participated in one or more roundtables:

Current Board members:

- Peter Benjamin, Chairman of the WMATA Board and principal director from Maryland
- Catherine Hudgins, First Vice-Chairman of the WMATA Board, principal director from Fairfax County and member of the Fairfax County Board of Supervisors
- Mortimer Downey, principal director from the federal government and former U.S. Deputy Secretary of Transportation
- William Euille, alternate director from Virginia and Mayor of the City of Alexandria
- Christopher Zimmerman, principal director from Virginia and Vice-Chair of the Arlington County Board

Former Board members:

- Kate Hanley, former alternate member from Virginia (1988-1995 and 1998-2004) and former Chairman of the Fairfax County Board of Supervisors
- Gladys Mack, former principal member from the District of Columbia (1979-1991 and 1995-2007)
- Matthew Watson, former alternate member from the District of Columbia (1988-1992) and former DC City Auditor

Representatives of advocacy groups and other participants providing input:

- Richard Bradley, Executive Director of the Downtown DC Business Improvement District
- James Dinegar, President of the Greater Washington Board of Trade
- James Dyke, Chairman of the Greater Washington Board of Trade
- Dennis Jaffe, Sierra Club Metro DC and first chair of the RAC (2006)
- Jackie Jeter, President of ATU Local 689
- David Robertson, Executive Director of the Metropolitan Washington Council of Governments
- Richard Rybeck, former aide to former Board member Hilda Mason from DC and former District Department of Transportation official
- Stewart Schwartz, Executive Director of the Coalition for Smarter Growth
- Tina Slater, Vice President, Action Committee for Transit, reading a statement by Ben Ross, President of the Action Committee for Transit
- Lateefah Williams, political and legislative director for ATU Local 689

The following members of the Riders' Advisory Council and others participated in one or more of the sessions:

- David Alpert, chair of the Governance Committee and DC Vice-Chair of the RAC
- Frank DeBernardo, member from Prince George's County and Chair of the RAC
- Victoria Wilder, member from Montgomery County and Maryland Vice-Chair of the RAC
- Penelope Everline, member from Arlington County
- Christopher Farrell, member from Montgomery County
- Robert Petrine, member from Fairfax County
- Carol Carter Walker, member from the District of Columbia
- Lillian White, member from the City of Alexandria
- Kim Kaplan, an Alexandria member of the Transportation Planning Board's Citizens' Advisory Committee, also participated in some meetings following an invitation from the RAC to the CAC to have one or more CAC representatives participate in the process.

The Governance Committee posed the following questions to participants to frame the issue:

1. What does the WMATA Board do well? What could it do better?
2. What types of decisions are appropriate for the Board to make? What types of decisions are more appropriately delegated to the General Manager and his/her staff?
3. What advantages/disadvantages do you see in including public officials, appointed individuals and/or directly elected representatives on the Board?
4. How does the composition of the Board affect WMATA's ability to secure funding?

After some initial comments by each participant, RAC members asked questions and participants engaged in an open discussion of the issues.

A summary of the issues discussed at the roundtables is attached as Appendix A.

## Recommendations

Based on the conversations at the roundtables, the Riders' Advisory Council feels that it is important for the Board to consider ways to improve governance. There are many ideas which could improve the Board's functioning and relationship to riders, and WMATA stands at a moment in its history when it needs to take action to restore confidence and address the systemic issues which have been building for a long time. Funding is one of the largest, but it is not the only one, and improvements to the functioning of WMATA and its Board can help build public support for new means of funding.

The following are our recommendations:

**1. The Board is analogous to a legislature and should include public officials.**

- 1.1. To the extent practical, each rider in the Compact area should have one or more representatives on the Board who represents that rider in an elected capacity.

**2. The Board should set clear, high standards for its members.**

- 2.1. The Board should define, as a written policy, the responsibilities of Board members.
- 2.2. The Board should set a high standard for attendance at Board and committee meetings, and incorporate that standard into the Procedures that it adopts at the beginning of each year.
- 2.3. Board members should ride rail and bus regularly, and take occasional trips on MetroAccess to experience that service as well.
- 2.4. Jurisdictions should commit to appointing members who can commit to meet the attendance and ridership standards, and removing members who do not.
- 2.5. Jurisdictions should select public officials for their involvement with budget processes that could affect transit funding, and their role in land use policy in the vicinity of transit, especially Metrorail stations.

**3. The Board should focus on high-level policy and objectives.**

- 3.1. The Board should spend more time discussing and developing policies on issues such as land use, fares, budget, and service.
- 3.2. The Board should set clear, high-level goals for WMATA on issues such as safety, operations, and customer service, and monitor progress against those goals.

**4. The Board should act as a regional body rather than as individuals.**

- 4.1. The Board and General Counsel should clarify that guidance from individual Board members either at or outside meetings do not have force and the staff should not modify policy on that basis.
- 4.2. The Board chair should no longer automatically rotate. Instead, Board members should elect the best chair each year. Reelection of capable chairs is encouraged for continuity.
- 4.3. The jurisdictional veto should remain.
- 4.4. The Board should remain the same size as called for in the Compact today.

**5. WMATA's top staff member should be a CEO rather than a General Manager.**

- 5.1. The top staff position should bear the title of CEO.
- 5.2. The CEO should bring specific recommendations to the Board.
- 5.3. The Board should let the CEO make most operational decisions based on Board policies and direction.
- 5.4. The CEO should feel free to present any information or recommendations to the Board or the public he or she feels appropriate.
- 5.5. The CEO should serve as the primary public face of WMATA.

**6. Board decision-making should include a clear and accessible public input process.**

- 6.1. The Board should create a standardized process for soliciting public input and involvement on decisions before any vote is taken on that decision.
- 6.2. The Board should develop a clearer policy around staff releasing information.
- 6.3. The Board should create a clear mechanism for riders to contact individual members.
- 6.4. Board members should follow up directly on communications from riders and be adequately staffed to do so.
- 6.5. All Board meetings including committee meetings and special Board meetings should include a public comment period at the beginning,
- 6.6. The Board should repeal the current rule limiting public comment to once every three months.



## 1. The Board is analogous to a legislature and should include public officials

The WMATA Board is more analogous to a legislative body than to a corporate Board of Directors or the board of a public utility. However, there are valuable elements of non-legislative organizations' governance that the Board can incorporate.

Some criticisms of the WMATA Board say that it is too fraught with political conflict. When this interferes with the Board's ability to make good decisions, this is a problem. However, it often leads to better decisions, rather than worse ones.

WMATA must balance the needs of multiple jurisdictions with different interests. It must operate services that touch riders on a daily basis, where riders expect responsiveness. A legislature is the political structure best able to meet these needs.

Some proposals for reform of the WMATA Board cite MWAA, public utilities like DC Water, or corporate boards as examples of governance. One seemingly appealing element of these structures is that they appear to be much more efficient.

However, this is a false comparison and assumes the wrong objective.

Unlike MWAA, WMATA's operations are not narrowly circumscribed in a small geographic area which can be under exclusive control. Unlike public utility authorities, decisions have to be made about how much transit service to provide, and to whom. Unlike corporations, riders do not have the choice to take their business elsewhere. Most importantly, unlike all of these, WMATA is not in a position to raise its own revenue and become self-sufficient.

Proposals to restructure the Board to be more akin to MWAA or a corporation would simply move the politics under the surface. Instead of the press reporting on the fight over an issue, the press would not be present. That might reduce the number of tweets about a silly comment by a Board member, but it would not result in better outcomes.

WMATA does not need to make decisions with less public debate; it needs to make the right decisions. The needs of diverse jurisdictions must necessarily be a factor. It must also balance the interests of most efficiently moving trains and buses against broader policy goals, such as access by riders of different incomes, different geographies, different times of day and different modes of reaching transit.

Simply being a legislature does not mean giving up on making governance more effective. There are elements of the governance of other, non-legislative bodies that can provide ideas for improving WMATA's governance, and in particular the executive.

**Recommendation 1.1: To the extent practical, each rider in the Compact area should have one or more representatives on the Board who represents that rider in an elected capacity.**

Ideally, each rider should have at least one elected official representing them on the Board whom they have the power to vote for or against in an election (presuming they are eligible and registered to vote).

Fundamentally, elected officials are most responsive to those who directly elected them. Riders who have such an official on the Board enjoy the ability to weigh in with a member on policy issues and feel they will receive a response.

However, given the structure of the region's governments, it is not possible or practical for all riders to actually have a representative on the Board, since doing so would require a very large Board (and we don't think it should get larger; see Recommendation 4.4), or the service of officials who would not have the time or interest in serving directly.

For example, in Virginia, no four local officials collectively represent all riders. Only the chairman of the Fairfax County Board of Supervisors is elected at-large in that county, and she has too many other responsibilities to serve on the Board. The Cities of Falls Church and Fairfax cannot gain representation without the Board becoming larger.

However, the current composition in Virginia gives a large number of riders direct representation, by including two members representing rider-heavy districts from the jurisdiction with the most riders and at-large members from the next two, and giving all jurisdictions a role through NVTC.

In the District, all riders are represented if at least one at-large DC councilmember serves on the Board. Montgomery County could have an at-large county councilmember as one of its members. Prince George's County has no at-large councilmembers, but could appoint a councilmember, state senator or delegate whose district contains a large number of Metro stations, bus lines, and riders.

Some worry that there may be an inherent conflict of interest with elected officials seeking benefits for their constituents versus benefits for the entire region. The RAC heard from several current and former Board members who explained how they do consider the entire region, largely because their riders travel throughout the region.

Even if members do focus at times on their own jurisdictional interests, the negotiations between jurisdictions usually generates a compromise that relatively fairly balances the wishes and needs of each. Budget negotiations give each jurisdiction some but not all of the elements they want. It may appear messy, but it is ultimately fair.

### **Should some Board members be directly elected?**

Several participants at the roundtables suggested the direct election of a number of Board members by voters. This would ensure that members are responsive to rider concerns. Four transit systems have directly elected boards: Denver's, the San Francisco Bay Area's BART, Alameda County, California's AC Transit, and Salem, Oregon's.

However, the committee was persuaded by other feedback raising cautions against this approach. Such a system would run a great chance of bringing in members without the ability to advocate for funding with local jurisdictions or influence land use. Candidates might even oppose transit altogether, and many interest groups would likely try to influence elections. We believe that more specialized functions

like the WMATA Board are better suited to elected officials who run on a broader platform or appointees of elected officials.

## 2. The Board should set clear, high standards for members

The Board and its members play a number of roles beyond simply directing WMATA. Unlike in many other organizations, the Board's role does not begin and end with casting votes on decisions WMATA must make. Board members also are significant points of contact with riders, and are advocates for transit in their own jurisdictions, both fiscally and in land use planning. These diverse roles are not a distraction but an integral part of the Board's functioning.

### **Recommendation 2.1: The Board should define, as a written policy, the responsibilities of Board members.**

One theme which became clear through the roundtables is that Board members do not all share the same view of what the role of the Board is or what it should be, or the responsibilities and qualifications of Board members.

We recommend that the Board engage in a discussion amongst its members, with staff and with the riding public, about what we expect from the Board and individual members.

We consider the following to be essential responsibilities:

- Participate in discussion and debate at committee and full Board meetings
- Cast votes
- Listen to rider input
- Advocate both publicly and behind the scenes for WMATA's needs
- Educate riders
- Experience all three modes of transit service

The ideal Board member should possess many of the following qualities, which jurisdictions should bear in mind when they select members:

- Demonstrated interest in transit
- Broad transit knowledge
- Interest in interacting with the public
- Jurisdictional budget influence
- Role and influence over land use policy
- High public standing
- Ability and commitment to think regionally as well as locally
- Time and desire to fully participate in deliberations in committee and full Board meetings
- Experience through regular ridership of the system
- Current residence in the Compact area

**Recommendation 2.2: The Board should set a high standard for attendance at Board and committee meetings, and incorporate that standard into the Procedures that it adopts at the beginning of each year.**

We are indeed “chagrined,” as one roundtable participant put it, by the poor attendance of many members. With a small Board and many issues to work out which matter so much to so many, it is not acceptable for members to view attendance as optional.

Some members who rarely attend claim they are working in Metro’s interest behind the scenes. This rationale is not persuasive. As Ms. Hanley explained, Board membership is far more than casting a vote. It is an ongoing, active involvement in setting important policy. Members need to be present for most discussions to understand the past context for present decisions.

The former members said that they had close working relationships with their counterparts in other jurisdictions. Members today must strive for the same standard. One weakness we heard in our roundtables was that members often do not talk to each other as much as legislators do in a city or county board or council.

Membership on the Board should not be considered a political plum to be given to a supporter or an elected official who wants an extra title. Nor should it go to the highest ranking official in a government simply by virtue of their position. It should go to those who have the time and interest in making a deep commitment to addressing WMATA’s needs and working for the needs of riders, and who exemplify the qualities and can exercise the responsibilities listed in Recommendation 1.1.

**Recommendation 2.3: Board members should ride rail and bus regularly, and take occasional trips on MetroAccess to experience that service as well.**

It is true that some members are strong advocates for transit while not riding the system on a regular basis. After all, some elected officials note, they themselves hear from riders. However, we believe there is no substitute for regular, direct experience with the system.

We realize that not all members can ride often or on a set schedule, but we think that members should ride often enough to be familiar with the system and its operations.

**Recommendation 2.4: Jurisdictions should commit to appointing members who can commit to meet the attendance and ridership standards, and removing members who do not.**

The August 2, 2010 *Examiner* article “Metro board members play hooky”<sup>10</sup> noted the disadvantages DC faced in recent budget negotiations as a result of having only one of its two voting members able to participate in negotiations. Having a member who does not participate and ride transit hurts that jurisdiction in important ways.

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<sup>10</sup> <http://www.washingtonexaminer.com/local/Metro-board-members-play-hooky-1005888-99658089.html>

Riders should bear in mind the appointment decisions made by their top leaders, whether county executives, Governors, the Mayor or Council Chairman in DC, and hold those leaders accountable for those choices. If a member does not attend meetings or ride transit, it reflects poorly not only on that individual, but on the person who chose that individual for the Board or allowed him or her to remain.

The federal government should also make a similar commitment when selecting its remaining representatives. Part of choosing regular riders and those with the time to attend meetings must necessarily mean choosing individuals who live in the Washington metropolitan area, since a resident of another city cannot ride the system regularly and Board meetings, budget hearings, and other events are frequent enough that only those who live nearby can practically participate fully.

**Recommendation 2.5: Jurisdictions should select public officials for their involvement with budget processes that could affect transit funding, and their role in land use policy in the vicinity of transit, especially Metrorail stations.**

The role of a WMATA Board member goes beyond simply operating the Authority. Board members often act as advocates for transit within their jurisdictions as well as advocates for their jurisdictions within the Board.

Members advocate for transit in their local jurisdictions in two ways: by setting the budget and by determining land use.

The most important is representing transit needs in the budget process. When Board members are able to influence their jurisdictions' budget processes, a better relationship develops to ensure that WMATA is responsive to the budget pressures of the jurisdictions and the jurisdiction is also responsive to the budget pressures of WMATA.

Land use decisions also strongly affect WMATA. The more development happens around Metro stations, the more riders use the system, increasing transit revenue. It is better when those deciding land use are also appropriating money for transit, because they have an incentive to maximize the investment.

Where this relationship does not exist, local jurisdictions may lack the same direct incentive to guide land use around transit. But if, at the very least, an official who is involved with land use policy also serves on the Board, it ensures that transit is highly considered.

### **3. The Board should focus on high-level policy and objectives**

Current and former Board members uniformly defined the WMATA Board as a "policy board," but there was a great deal of variation as to what a "policy board" means. One element, we believe, is spending a fair amount of time developing actual policies, rather than simply making policy-related decisions on a case by case basis.

**Recommendation 3.1: The Board should spend more time discussing and developing policies on issues such as land use, fares, budget, and service.**

The Board currently spends very little time defining high-level policy. Understandably, they are all busy people and often have to focus on the most urgent matters. However, this creates the perception of “micromanagement.” The Board needs to devote the necessary time to define broad policies with which to shape later decisions.

**Recommendation 3.2: The Board should set clear, high-level goals for WMATA on issues such as safety, operations, and customer service, and monitor progress against those goals.**

As several members noted, the Board is criticized both for micromanaging and for not being aware of operating problems. The first can be addressed by developing policies. The second is a consequence of the Board’s agenda, which almost exclusively covers issues requiring immediate attention.

The new “Vital Signs Report” is a laudable innovation, but it also reveals how on many metrics, little has changed. Staff told the RAC that the target level for metrics were based on past experience or set somewhat arbitrarily.

The Board should decide which of these “vital signs” it wants staff to improve, and direct the General Manager to identify what would be necessary to make progress in those areas. Together, the Board and General Manager should then establish achievable yet meaningful targets, and judge the General Manager in his or her annual performance evaluation based on progress against those goals. Further, we recommend that the Board discuss progress against these goals at least quarterly.

This would address many of the criticisms around safety in particular. Safety does not lend itself to decision-making based on urgency, because safety is never urgent until there is a problem with safety. If the Board works with the General Manager to set objectives and tracks progress, then the Board can ensure tangible improvements so that safety is never an afterthought.

#### **4. The Board should act as a regional body rather than as individuals**

**Recommendation 4.1: The Board and General Counsel should clarify that guidance from individual Board members either at or outside meetings do not have force and the staff should not modify policy on that basis.**

The Board should adopt the policy that Ms. Hanley described from the Fairfax School Board: the members have power when they act as a group, but not individually.

In the budget negotiations, staff often modified their recommendations based on statements of individual Board members. They were trying to identify a budget compromise that they thought would garner sufficient support, but this made the whole budget a moving target for other members.

On an issue like the budget, the CEO should present a recommendation based around what he or she thinks is best, not based on what he or she thinks will win votes. There can be a variety of other alternatives presented as well. If the Board wants to make changes from the recommendation, they can, but they should do so on their own, potentially negotiating to trade off different proposals instead of having the staff simply take one off the table preemptively.

Board members are free to meet privately with staff and try to influence them to modify a proposal, and staff are free to make changes, but they should treat this in the same way as they would a meeting with any other advocate. If they are persuaded by new information on its merits, they should make a change. If they are not, and still believe the original recommendation is right, they should continue presenting the original to the Board until such time as it votes as a whole to disapprove that plan and/or adopt a different alternative.

**Recommendation 4.2: The Board chair should no longer automatically rotate. Instead, Board members should elect the best chair each year. Reelection of capable chairs is encouraged for continuity.**

The Compact only compels the Board to hold elections for a chair, but prescribes no rotation. Nevertheless, the chair has rotated among the six seats annually by convention.

It is important to give the Board some stability from year to year. The Board should elect a member that has the support of all jurisdictions.

Having a new chair each year means that the Board's procedures have changed frequently. Committees have changed in number and size. Some chairs have set goals for the year, others have not. Some have controlled agenda items and information disseminated to fellow members or the public, while others have not.

A real election instead of a strict rotation will push members to choose a chair who has a good relationship with all and who holds a regional perspective. If there is a true contest for chair and one jurisdiction's member must win, it creates a need for members to act in a more regional way to win support from their colleagues.

Ideally, such a member would maintain the support and trust of colleagues so that the chair would change less frequently than once per year. Another suggestion was to create a longer, fixed term of office for the chair.

**Recommendation 4.3: The jurisdictional veto should remain.**

The veto may rankle and appear to create the opportunity for "gridlock," but WMATA is above all else a cooperative endeavor between three signatories with their own interests. It must ensure that no one is put at a disadvantage to ensure ongoing support from leaders and residents of all three. Messy as it is, the veto is necessary and should stay.

**Recommendation 4.4: The Board should remain the same size as called for in the Compact today.**

It is a truism of group dynamics that smaller groups are more effective at making decisions than larger ones. At 12 members, the Board was adequately sized to make decisions. Now, at 14, it is still able to. Hopefully the future increase to 16 will not impair this.

However, giving additional voice to the many Virginia jurisdictions that could demand representation would further grow the Board. DC and Maryland would need comparable increases.

We believe that an increase beyond 16 members would be detrimental to the effectiveness of the Board. If any Compact changes come under consideration, they should not involve enlarging the Board.

## **5. WMATA's top official should be a CEO rather than a General Manager**

If the Board plays a legislative role (see Recommendation 1), then the head of the staff must play an executive role. That executive function should be strong, making the CEO the primary leader of the organization.

### **Recommendation 5.1: The top staff position should bear the title of CEO.**

We agree with Mr. Downey that "General Manager" connotes a "hired hand" who simply obeys orders from the Board and makes the trains run on time. Renaming the position is the smallest but first step in changing the perception of this office.

The CEO can certainly hire an official who assumes more of an operational role, ensuring that the specific functions of WMATA are carried out day to day. Such a person could hold the title of Chief Operating Officer, General Manager, or something else.

### **Recommendation 5.2: The CEO should bring specific recommendations to the Board.**

The CEO should act as the visionary and leader for WMATA. He or she should recommend a course of action on long-term and short-term issues and bring them to the Board for approval, rather than waiting for the Board to point the way.

While the Board should set policy, the CEO should also formulate potential policies and bring those to the Board as recommendations. The Board can then modify the policies, but should have a clear recommendation from the CEO.

On issues such as budgets and contracts, the CEO should make a recommendation and then stand by it until and unless the Board makes modifications.

### **Recommendation 5.3: The Board should let the CEO make most specific decisions based on Board policies and direction.**

The Board should hire a CEO it believes will make the right decision most of the time. When the CEO comes to the Board with a recommendation, the Board should expect that in most cases it will approve the recommendation. If that confidence wanes, the Board should replace the CEO rather than second-guessing more of his or her decisions.

Several Board members told the Governance Committee that this is current practice, but at least following the Red Line crash, it has not appeared that way. The Board should go on public record that it intends to govern in this manner.

### **Recommendation 5.4: The CEO should feel free to present any information or recommendations to the Board or the public he or she feels appropriate.**



Leading up to the 2011 budget process, the Board provided budget guidance in the form of a resolution that mandated the General Manager present a budget containing no jurisdictional contribution increases and no fare increases beyond the 2-year cost of living increase.

As a result, the General Manager initially released only a single budget with enormous service cuts, which later evolved into a budget with all of the elements the Board guidance had prohibited but no service cuts.

Leaving aside the question of whether or not the Board should have provided this guidance or whether the General Manager interpreted it to be constraining him more than he should, this is not the proper relationship between the CEO and the Board. The CEO needs to be able to present realities, pleasant or unpleasant, to the Board, and a number of options, whether politically comfortable or not. That means the Board should not try to discourage the CEO from bringing forth any recommendations and the CEO should not feel constrained from presenting potentially unpleasant facts or difficult choices.

The Board Chairman and other members should not be making these types of requests. Their role is to listen to what the CEO is saying and give feedback, and ultimately approve or reject the proposal. They should not be preventing the CEO from asking or from sharing anything with the other members. To ensure this is clear, the Board should add a formal policy on the subject to their operating procedures which are reviewed and updated annually.

**Recommendation 5.5: The CEO should serve as the primary public face of WMATA.**

In a corporate setting, the CEO is the person who most often represents the company on TV, in the press, at Congressional hearings and in other public venues. In a city, the mayor often fills this role, though the council head often does as well, in that case often because both have political standing and ambitions.

In recent years, the General Manager has often been a less visible public figure than the Board chair. John Catoe had few direct contacts with the press. Richard Sarles is currently serving in an interim capacity, and perhaps partly as a consequence is not doing much to raise his public profile.

The Board should clearly define the role of the Board chair relative to the CEO. The CEO should be the one to go on television or the radio, and should give interviews. He or she should play the role of the most visible WMATA official.

**Should the CEO be a member of the Board?**

Some individuals and organizations who support elevating the GM/CEO role have suggested making the CEO a member of the Board, possibly even as its chair, as is the case in some other transit systems like the New York MTA.

Without such a change, there will be an inherent and perhaps inevitable tension between the value of having the CEO tell the Board what they don't want to hear, and the desire of the CEO to please those who have the power to fire him or her. It will require some restraint and clear agreement by the Board

to avoid the temptation to take over the spotlight, or start deciding more minor details, or to clash with an independent-minded CEO. Riders, advocates, and local jurisdictions will need to maintain the strong expectation with Board members that they treat the CEO like a CEO.

## **6. Board decision-making should include a clear and accessible public input process**

The more the Board is focused on policy, the more each individual decision impacts riders in long-term ways. Policy decisions should not be made lightly or based on initial impressions at a meeting where Board members have not had any opportunity to hear from the public.

In addition, in Recommendation 5 we encouraged the Board to delegate more decisions to the CEO and in Recommendation 3 to concentrate more on policy. The question remains how to ensure the Board resists the temptation to tinker with the mechanics of individual issues and lose focus on policy.

In a legislative system, one check on a legislature's propensity to micromanage issues is its process for making decisions. Most legislatures require public notices and hearings before making decisions. Should the Board institute similar requirements?

At first blush, it would seem that any mechanism that slows down Board decision-making might reduce WMATA's efficiency. However, if Board decisions require a period of time and a public process, it could push the Board to actually decide fewer yet more significant items, and to delegate the operational and more immediate issues to the CEO.

Therefore, in keeping with the legislative theme of Recommendation 1, we suggest that the Board adopt a more legislative process. Some types of decisions can be done quickly, but most other issues should require public comment. If that necessitates more steps in the decision-making process, that can be an advantage.

### **Recommendation 6.1: The Board should create a standardized process for soliciting public input and involvement on decisions before any vote is taken on that decision.**

Currently, agenda items appear on the Board website six days before a meeting, in most cases. Riders can, if they are paying close attention, see this information. If they know how to contact their Board members, they can weigh in. Often, members make their decisions at that meeting.

The Board should modify this process to require public input before taking a vote. This could happen in one of two ways. First, staff could release the information publicly with a longer lead time, announce it publicly, and develop a formal way for people to weigh in. Alternately, staff could present it to a committee but the committee would not vote. After that, the Board could solicit input and then take a vote at a subsequent meeting.

The input itself could take a variety of forms. It could involve public hearings, or posting items online and in public places and allowing feedback via a Web site or phone number. Another option would be for the Riders' Advisory Council to play an increased role.

**Recommendation 6.2: The Board should develop a clearer policy around staff releasing information.**

Participants in the roundtables explained that staff sometimes feel a tension between the chance of getting reprimanded for not soliciting rider input before presenting something, and the chance of getting reprimanded for talking about something to members of the public before the Board members have had a chance to review it.

Board members shouldn't reprimand staff for either of these actions. The Board should do more to define what it expects from staff and from riders. Sometimes one member of the Board expects one thing and another member expects something else. The Board should work to reach consensus on when information should be released and how to elicit public feedback.

**Recommendation 6.3: The Board should create a clear mechanism for riders to contact individual members.**

Riders who live in jurisdictions with elected officials on the Board can send comments on policy to their members via the publicly accessible contact information every elected official maintains. Riders whose representatives are appointed have no similar clear venue.

Today, riders can contact BoardOfDirectors@wmata.com, but there is no assurance that riders will receive a reply, which members will get the message, or who will reply. Some emails on policy issues end up going to the customer support staff and yield a staff response rather than going to a Board member.

The Board should create a process for any rider to send a message to any particular member. One easy way would be to create a Web form on which riders can select a member or their jurisdiction from a drop-down and then enter a comment to go to the member.

As several participants in the roundtables pointed out, in a legislative system (see Recommendation 1) representatives actually play two roles. One is to set policy. The other is to help constituents with issues when the standard administrative procedure has not functioned. For example, Congressmen help people whose Social Security checks have not arrived due to bureaucratic snafus.

This is not a distraction but rather a valuable way to increase public confidence in an institution. The better the standard customer service system becomes, the less members of the public need to reach out to their representatives, but inevitably there are some cases where the standard system breaks down and it becomes necessary.

In its process of defining its role and that of members in recommendation 2.1, the Board should include the "Congressman role" among those expected of Board members.

**Recommendation 6.4: Board members should follow up directly on communications from riders and be adequately staffed to do so.**

Riders who contact their representatives expect to receive a reply from that individual, even if that reply is actually composed by a staff member. Even so, those replies generally bear the name of the representative, telling the rider at the very least that the representative is generally aware of the issue and has authorized the response.

WMATA Board members should do the same. Naturally, this expectation would create some work for members. If necessary, therefore, they should have adequate staff to handle these inquiries.

Some members may feel they are adequately staffed today, while others may not. For those who are, the existing staff can handle the communications.

For those who are not, we suggest adding some staff inside the WMATA headquarters. This could include employees dedicated to an individual Board member or a member and alternate pair, or shared staff in the Office of the Board Secretary, or other arrangements.

**Recommendation 6.5: All Board meetings including committee meetings and special Board meetings should include a public comment period at the beginning,**

The public comment period at the beginning of each Board meeting was added in 1995 as a consequence of the same Sierra Club advocacy that resulted in the Riders' Advisory Council. However, the public comment period only exists at the start of each full, regularly-scheduled Board meeting.

In reality, many Board members make up their minds and give guidance to staff at committee meetings. However, committee meetings have no public comment period. Likewise, "special Board meetings" have no public comment period either.

The Board should provide the opportunity for members of the public to speak with them before each meeting, regardless of its size or whether it is "special."

**Recommendation 6.6: The Board should repeal the current rule limiting public comment to once every three months.**

A little-known provision of current Board procedures restricts any individual from speaking during the public comment period more than once every three months. The Board should drop this provision.

This inherently assumes that the testimony from the individuals at public comment is burdensome rather than useful. After all, if someone has useful input to the Board, wouldn't it be useful during two adjacent meetings as well as when spread out more widely?

In fact, public comment input has often informed Board debates and even led to new policies. Even if some individuals' comments are not as informative, listening to the public is part of the responsibility of legislators. After all, the agency runs on public money and members of the public pay the fares.

## **Appendix A: Summary of feedback from RAC hearings**

The Board relates to three other groups: jurisdictions, riders, and the General Manager and other staff. The feedback at the roundtables can generally therefore be grouped into these three categories, plus a fourth: Who should serve on the Board, to best accomplish the needs from the three relationships?

The below statements are not verbatim quotations from the participants, but paraphrases based on notes. These are grouped into topics to make it easier to understand the discussions, but for any particular topic, the various comments often occurred at separate meetings, each of which had different participants testifying. Except when a word like “replied” is used, the statements do not necessarily relate to each other as those making them may not have heard the others.

### **How should the Board relate to jurisdictions?**

#### **Historical perspective**

A number of participants talked about how WMATA’s reputation has shifted over time.

Mr. Benjamin talked about how Metro’s original purpose was to build a rail system rather than to operate it or run the bus system, but he feels the Board has risen to the subsequent challenges and had been viewed positively until the June 2009 Red Line crash.

Following the crash, the public perception changed, Mr. Benjamin said. He explained how he could attend a party before the crash and people would say positive things, while now people talk about Metro’s problems. He said he doesn’t believe the Board’s actions changed over that time period.

Ms. Jeter replied that she felt there had been “cracks” in the system all along, but people weren’t paying as close attention. Also, the system is aging, which exposes problems to a greater extent.

Ms. Hudgins also spoke to this topic, noting that some of WMATA’s biggest challenges involve communication, which wasn’t as necessary when the system was newer and everything worked better. The declining maintenance condition has forced more interaction with the public.

#### **Need for funding**

Several participants said they felt that the primary issue facing WMATA is one of funding, and some argued that an examination of governance is missing the key issue.

Mr. Zimmerman said he feels that discussing governance simply gets away from talking about the fundamental problems of funding. The system needs “vast amounts of money,” is not getting it, and little is being done currently to set up a revenue source.

Therefore, advocates are discussing governance, which is academically interesting but, Mr. Zimmerman argued, is not likely to result in any actual changes nor fix the deeper issues.

Ms. Hudgins noted that any private sector company would have invested in its infrastructure to a greater extent over time.

Mr. Euille said that with more money, WMATA could “run like Microsoft,” but in the absence of money it faces many challenges with an aging system.

### **Ability to advocate for funding**

Many participants directly linked the current funding structure to the representation of local jurisdictions on the Board.

Mr. Benjamin explained the history of Maryland’s representation. At first, Montgomery and Prince George’s Counties paid some of the cost of Metro, and the county executives appointed the principal directors. In 1992, the state took over that funding responsibility, and the Governor began appointing the principal directors while the county executives appoint the alternates.

Ms. Hanley said that Virginia localities have to be represented on the Board because they are the ones that appropriate money out of the general fund, and other money for Metro comes from dedicated Northern Virginia-only taxes like the add-on gas tax. As long as localities and residents of the local jurisdictions are primarily paying for transit, they will expect representation on the Board.

Mr. Zimmerman said there is an advantage to having elected officials on the Board, since they are more directly connected to the budget process and can work to get more money allocated, as happened during the FY2011 budget where Northern Virginia jurisdictions were the first to increase support for Metro.

### **Ability to tie land use to transit**

Another way Board members often interact with local jurisdictions is in the discussions over development at and around Metrorail stations. Local jurisdictions hold the zoning powers to decide land use, which affects Metro’s budget since greater development around stations leads to more ridership which increases fare revenue.

Mr. Schwartz noted that elected officials who serve on the Board are in the position of both having an involvement with Metro and also an involvement in local land use decisions. He said that gives them a greater understanding of transit-oriented development and the ridership benefits that come with that development, which benefits Metro.

### **Jurisdictional veto**

There was a significant amount of discussion of the jurisdictional veto. Almost all participants supported retaining the veto.

Mr. Zimmerman analogized the veto to a provision in the U.S. Constitution like the bicameral legislature. He said it was a necessary element to get the three signatories (DC, Maryland, and Virginia) to agree to the WMATA Compact. Any of the three wouldn’t participate if they feared the other two would outvote them on important issues.

Mr. Benjamin said that without the veto, any two signatories could agree to change the funding formula, which allocates costs among the various jurisdictions, to the detriment of the third.

Ms. Hudgins said that new Board members often assume the veto will be burdensome, but that instead of being “overpowering,” it often functions as “collaborating” by making sure the jurisdictions work together to find a solution instead of simply deciding on a divisive majority vote.

Mr. Benjamin also said that the veto is rarely used, and that a bias exists against using it.

Ms. Mack pointed out that the veto can only be used to “pause” progress instead of make progress. She said it sounds worse than it works in practice.

Ms. Mack also noted that DC is often the jurisdiction that feels most vulnerable, because it and Arlington are more central and urban than the outer jurisdictions and its riders therefore have different needs than those from Maryland and outer jurisdictions in Virginia.

Mr. Watson relayed an example when most of the system had been constructed but not the Green Line between U Street and Fort Totten. There was a desire for trains from Greenbelt to switch to the Red Line and run to Farragut North, a service pattern that was ultimately adopted for a period of time. However, DC was fearful that this would result in the inner Green Line being cut for cost reasons, and thus used the veto to prevent this service pattern until contracts were issued for the construction of the line.

**Reactions:** Mr. DeBernardo pointed out that even if the veto is officially used only rarely, it is often threatened, similar to the way the filibuster is threatened but not formally used in the U.S. Senate.

Mr. Alpert noted that while it is only a tool to slow things down, sometimes that leads to a certain brinksmanship where one or more jurisdictions holds up an important decision, like the budget, in order to exact concessions as the danger of delay becomes great.

## **Hazards of the veto**

Some participants pointed out potential dangers in the veto.

Ms. Hanley suggested that the veto should only be used in important situations. If a jurisdiction threatens to veto over other matters, it can cause gridlock.

Mr. Ross’s statement (as read by Ms. Slater) also talked about a potential for gridlock, and noted the paralysis of the Washington Suburban Sanitary Commission as an example. He also worried that members could use the veto power to assert control over hiring or procurement decisions.

Mr. Ross’s statement further noted that the original Compact provided for members to be chosen independently, such as by the two separate county executives in Maryland, but that has changed as the Governor of Maryland now appoints both members. Consequently, members from other jurisdictions now vote more often in concert, making it more likely the veto will be used.

Mr. Ross's statement pointed out that the Maryland secretary of transportation effectively holds the veto power on his or her own since he or she controls the Maryland Board members. While they have been dedicated public servants and not tried to improperly use the veto power, he said "governmental structures should not be designed for angels."

**Reactions:** Committee members appreciated these dangers but felt that there is little alternative to the veto. They did not feel that separately chosen members would make a significant impact on the veto and that there is no way to limit it to the truly important issues as there is no clear definition of an important issue. For example, the case Mr. Watson cited about the Green and Red Line service could seem to be a less important issue, as it only pertained to the running of some trains in a way that purely added rider value. However, DC considered it very important since it could have impacted the construction or cancellation of a line segment entirely inside its borders.

## How should the Board relate to riders?

### Need to educate riders

Several participants cited education of riders as being a role of the Board that should not be neglected.

Ms. Jeter said that education of the public on transit is a missing element today.

Mr. Benjamin and Ms. Mack said that riders need to have more education on how the system works and why it costs what it costs to run it. Mr. Benjamin relayed an example of one person at a budget hearing who accused the Board of cutting costs and service or raising fares so that it could pay more money to shareholders. (There are no shareholders and WMATA does not generate profit.)

Ms. Hanley said that just as a more educated electorate often makes better decisions when voting, a better educated riding public can better give input to the Board.

### Role like a Congressman

Mr. Zimmerman said that large bureaucracies face an "inherent limitation," in that they need hierarchical structure to be efficient, but which also can cut down on responsiveness to those on the outside. He said that people within the organization may want to help an individual but also have to respect the structure and the roles of others who are in charge of that area, and that sometimes the decisions are policy ones which they cannot make on their own.

Therefore, Mr. Zimmerman suggested that one important function of a Board member is analogous to a Congressman, who is formally responsible for voting on legislation but also spends considerable time helping constituents with problems that the regular bureaucracy doesn't solve. He called this an "escape valve," and said it's necessary for there to be public support for the bureaucracy.

As an example, Mr. Zimmerman said that Board members sometimes deal with issues where a bus often doesn't show up, but the supervisor is rationally focused on other performance metrics. He argued that



no system can function without some people in the role of a legislative representative who can get involved when necessary.

### **Releasing information to riders**

One question posed at some roundtables related to the way WMATA discloses information about performance. Staff often seem reluctant to release information, sometimes believing they are not allowed to share it until it has been presented to the Board.

Ms. Hudgins agreed, saying that the agency often acts with undue caution about when to release information, who to release it to, and how much to share. She expressed a desire for WMATA to be freer with information that is not confidential, proprietary, or subject to policy debate.

Ms. Hudgins also said she would like to ensure that information also goes to the Board so that they are not surprised to see it in the press. She suggested the Board and General Manager reach some understanding about this process, to avoid the public thinking of the agency as “impenetrable.”

Mr. Zimmerman said he thinks WMATA can do a better job of “communicating and being communicated to.”

Ms. Hanley argued the Board needs to do more in this area, saying, “Sunshine needs to be first, not last.”

### **Need for public input**

A number of participants noted how the Board often makes policy decisions on issues without having much or any opportunity to hear from the public.

Mr. Watson said that the public should not be surprised by any policy decisions the Board is making on any particular day.

Ms. Hanley said that the Board often only starts focusing on an issue the day they’re going to hold a vote, either in committee or at the full Board. She suggested the Board take time to listen to people and get feedback earlier in the decision-making process.

Mr. Downey pointed out that agenda items are typically posted online the Friday before a Board meeting.

Mr. Zimmerman said that he often asks staff what the RAC thinks of an issue, even knowing that staff has not asked.

On the other hand, Mr. Zimmerman noted that staff face a dilemma between the need to share information and the possibility of it getting them in trouble with Board members for not showing the information to the Board before releasing it publicly. Therefore, staff often wait until an issue is fully analyzed, which sometimes means they do not tell Board members either.

**Reactions:** The Governance Committee discussed this issue significantly at its followup meeting. Some noted that other agencies use longer timelines for discussing issues, compared to WMATA where an issue goes to the full Board just two weeks after a committee meeting, and given the posting of agendas the Friday before, that can be just eight days after. Some agencies use a six-week process.

Ms. Everline said she thought that two weeks was too quick. She said when she was on a hiatus from working, she could keep up with issues before the Board posted 6 days before a committee or full Board meeting, but that she thinks most people who work full time would not be able to even become aware of most issues in that time frame, let alone review materials and provide comment.

Ms. Walker suggested looking to federal rulemaking processes which have longer periods for public comment.

The Governance Committee also discussed the DC Council's process, which requires hearings but allows for "emergency" legislation that circumvents that process. However, "emergency" legislation requires a supermajority to declare an "emergency" and must expire after a fairly short period of time unless it is extended through the permanent process.

### **Opportunities to communicate with the Board**

Mr. Jaffe pointed out that Board members who are elected officials have more evident ways to be reached. They are often more well known and get stopped in public places like supermarkets. Also, they have email addresses posted on their public Web pages.

Meanwhile, Mr. Jaffe noted that there is no way to directly reach an appointed member. There is an email address, [BoardOfDirectors@wmata.com](mailto:BoardOfDirectors@wmata.com), which goes to the Office of the Board Secretary.

**Reactions:** Mr. Pasek informed the Governance Committee that the emails to [BoardOfDirectors@wmata.com](mailto:BoardOfDirectors@wmata.com) are all presented to Board members in a spreadsheet each week.

Ms. Everline said that she has sometimes emailed that address and not received any reply.

### **Staff for Board members**

Some participants talked about whether Board members need additional staff to assist them in their role in interacting with and advocating for riders.

Mr. Jaffe suggested that Board members receive additional staff. He pointed out that elected officials use their elected office's staff to communicate with constituents on Metro issues, but that appointed members have no such resource.

Ms. Hudgins said that she has a dedicated transportation staff person who works for Fairfax County, but that person is focused on Fairfax's interests, and that it could be beneficial to have greater staffing at Metro.

**Reactions:** Ms. Walker suggested there could be an intermediate process between submitting a customer service form, which most riders feel disappears into a black hole, and actually getting a Board

member involved. Perhaps there could be some staff members who are more visible to riders for complaints.

### **Need for public standing**

Mr. Jaffe also pointed out that either the Board or General Manager should be in a position to rally the public behind an agenda. He said this requires members who have “high public standing and accessibility.”

## **How should the Board relate to the General Manager?**

### **Policy Board**

Many current and former Board members expressed a clear sense that the Board is a “policy board.”

Mr. Benjamin said that in testimony to Congress and the NTSB, he was repeatedly asked why the Board wasn’t aware of various specific details, and that he replied that they are a “policy board.”

### **Micromanaging vs. effective oversight**

Mr. Benjamin said the Board is often accused of micromanaging, but that he isn’t sure he or anybody else knows what micromanaging is. He doesn’t think people would be happy if the Board only met quarterly and only discussed “great and ethereal policy issues.” On the flip side, he doesn’t think people want them to decide “who should be hired, who should be fired, and how the bus operators should sit in their seats.”

Mr. Zimmerman said he hears two major criticisms of the Board. One is that they micromanage too much, and the other that they are not paying close enough attention. He said the NTSB, for example, wants the Board to have known about technical details around safety, but also criticized it for micromanagement. He argued that these are “completely contradictory.”

Ms. Jeter said that many of the issues the Board focuses on should be in a day to day category better handled by staff, but that the Board should be spending more energy on safety, on ensuring compliance with OSHA rules, NTSB recommendations, and workmen’s comp rules.

Mr. Dyke relayed a statement by NTSB Chair Debbie Hersman that she didn’t expect Board members to become track inspectors. However, he said the Board could metaphorically pound on the table and make it clear that they are serious about safety and the lack of a safety culture, and ask staff what they can do to ensure both.

### **Need to set goals**

Some participants suggested the Board do more to set high-level goals and objectives and monitor progress against those, in addition to simply being reactive to items that come before them.

Mr. Downey said the Board needs to take on a higher level role, setting parameters and giving reactions to items instead of “trying to ... hit at pitches as they come in.”

Ms. Mack encouraged the Board to create a process for setting objectives and monitoring progress against them. The objectives could appear on the General Manager's evaluation each year.

Mr. Bradley recommended that the Board give staff performance measures and ask them to meet those. He said that his board at the Downtown BID just approves a general direction and budget, and judges his performance as Executive Director, but isn't more involved day to day. He thinks the WMATA Board should follow a similar model.

### **Need to set policy**

Related to this, many participants discussed how much the Board should be defining more general policies outside of individual cases, but that would guide actions on individual cases.

Ms. Hanley said Board member should spend more time talking about issues when they are not facing an immediate vote.

Mr. Downey suggested the Board do more to set general policies. On fares, for example, he recommended the Board decide if they want fares to reward regular riders, giving bigger discounts to those who ride every day, or support tourists, or something in between.

### **What the Board shouldn't do**

Participants gave several examples of issues they believe the Board should not get involved in.

Mr. Watson listed the colors of seats and carpeting in railcars as items the Board should delegate to staff. He said the Board used to worry about such issues.

Mr. Benjamin said that over the last 5-6 years the Board has backed away from deciding several specific types of issues which they believe should be delegated to staff. He said they now stay away from decisions about hiring of top managers below the General Manager and in procurement decisions.

Mr. Downey criticized the Board's discussion in August of fare policy concerning letting SmarTrip cards go negative. He said such issues cannot be discussed well in the Board context, and is too detailed and complex for them to try to resolve.

### **Power of individual members**

Ms. Hanley explained how the attorney for the Fairfax County school board spoke to new members when she joined in 1984, and made it clear to them that they have no individual authority, only as members. They cannot promise to change anything or direct staff to take any actions. They can only act as a body.

Ms. Hanley suggested the WMATA Board also have a clear framework that they have no individual authority, and that if a member asks staff to take action on a policy issue, the staff should insist that the guidance come from the full Board instead.

## General Manager versus CEO

Participants at one of the roundtables spent significant time discussing the role of the General Manager.

Ms. Hanley said the Board should hire a General Manager they can trust, whom they respect, and then let that person do the hiring and make most decisions. She argued the Board should recognize that if the General Manager is recommending something they probably have good reasons, and should avoid undermining the GM.

Mr. Downey suggested the General Manager be considered a CEO. Changing the name is only a part of that distinction. He said “General Manager” is a 50-year-old term which implies a “hired hand” to simply make the trains run, and that WMATA needs more than that.

Mr. Downey added that many Board members have suggested bringing in a CEO type person, but that would also mean giving the CEO wider latitude and to have the CEO represent the organization to the public and outside groups.

A question was asked about the FY2011 budget process, where the Board passed a resolution on budget guidance that limited the General Manager to producing a budget that contained no jurisdictional subsidy increases and no fare increases beyond a two-year cost of living increase.

Mr. Downey said that if the Board wants a CEO, they will have to be willing to listen to what the CEO says, and hear things the way they are. The CEO has to have the freedom to lay out options for the Board to choose among.

## Role of the Chair

Participants discussed who the Chairman should be and whether the position of chair should rotate as it does today.

Mr. Downey added that he would prefer to see a structure similar to New York’s where the CEO is also the Chairman of the Board.

In his editorial, Mr. Homer had suggested the chairman serve for a fixed term longer than one year instead of maintaining the annual rotation among jurisdictions. He suggested a chairman selected through some other process, such as by agreement between the governors and mayor of the three Compact signatories.

Mr. Jaffe noted that in the Port Authority of New York and New Jersey, the Governor of New York appoints the executive director, while the Governor of New Jersey appoints the chairman.

**Reactions:** Mr. DeBernardo suggested that not having the chair rotate among jurisdictions, but allowing members to select and re-elect any member as chair, could promote a more regionalist perspective. Board members would have to select someone who they felt would not be parochial, but who would consider a wider perspective.

## **Who should serve on the Board?**

Much of the discussion surrounding governance has involved what people and what type of people should comprise the Board.

### **Value of elected officials**

Most of the participants praised the value of having local elected officials serve on the Board.

Mr. Watson, who was not an elected official himself, said that Metro is a political organization and always will be. He also thinks it should be, because there are many policy questions which require political judgment. He thinks that local elected officials should remain on the Board.

Mr. Zimmerman said that riders are best served when people on the Board are answerable to the public.

Mr. Jaffe said with few exceptions, elected officials are accessible to riders while appointed members are not accessible.

Mr. Schwartz said his organization likes having elected officials on the Board because they are more responsive, more accountable, and more transparent. He also added that the Virginia members, who are all local elected officials, were the leaders in increasing jurisdictional contributions on the budget. Meanwhile, Maryland's members had little authority. Advocates had to go to the Governor, and to reach the Governor they had to reach the Secretary of Transportation.

### **Appointed members**

Some participants also praised having some appointed members, especially alternates.

Mr. Watson said that he would like to see a professional class of "technocrat" members. He said that Bob Ostrum from Prince George's County, who was a former county attorney, and himself, a former DC city auditor, were appointed as individuals who had government expertise but were not incumbent politicians. He felt that this helped the jurisdictions to have professionals with the time to analyze policy and also to have people not interested in "the sound bite."

### **Value of a mix**

A number of participants praised having some combination of elected officials and appointed members.

Ms. Mack said there is no one type of representative who functions better than another. She said it's important to keep elected officials on the Board, who bring one constituency to the Board, and appointed officials who bring a "public perception" to the Board.

Mr. Watson said having public officials "increases the prestige" of the Board, and gives allies and spokespeople inside the local governments, but that he would make the alternates appointed members to lend more professionalism to the Board.

Mr. Schwartz suggested that Montgomery and Prince George's Counties consider appointing elected officials as their alternate members because the principal members in Maryland are already appointed. This would provide for a mix.

### **Should members be paid?**

There had been negative press recently around the fact that a few Board members were being paid while most are not. WMATA does not pay Board members. Marcel Solomon, the alternate from Prince George's County, was making \$39,656.90 from the county for his service.

Mr. Zimmerman noted that Virginia members get \$50 for each meeting, which is a nominal amount. They also must attend the meeting to collect this stipend.

Mr. Watson said he had been paid by DC, as had Bob Ostrum from Prince George's. He said this helped them devote most of their time to their role on the Board. He suggested appointed alternates should be paid.

In his blog post, Mr. Drummond advocated for banning the practice of paying members. He called Board membership a "public service where people should be honored to serve through appointment." He said a small stipend is fine but "the salary of a first-year teacher" is unacceptable.

### **Directly elected members?**

Some participants suggested the option of directly electing members of the Board, but all current or former Board members who spoke on the subject gave negative reactions to the concept.

Mr. Jaffe said he saw value in having members be elected directly by riders.

Mr. Ross, in his written comments, suggested analyzing this option.

Mr. Zimmerman said that three boards in the nation have directly elected members, Denver's, the San Francisco Bay Area's BART, and AC Transit, the bus system for Alameda County, California. (Alameda County contains Oakland and Berkeley and is also part of the BART service area. In addition to these, Salem, Oregon also has an elected board.)

Mr. Zimmerman warned against having directly elected members if they lack the ability to fund the system. Otherwise, he said, people will run on the idea of improving service but be unable to bring in the necessary money. In that case, he said the role would be more like running for student government.

Mr. Watson said it would be a horrible mistake to have directly elected officials. He said much "common wisdom" is plain wrong, and worries people would campaign on ideas that sound reasonable but which are entirely incorrect. As an example, he pointed to a case where Congress insisted freight trains travel only 5 mph near transit tracks after a spate of freight trains derailing. However, freight trains are actually less stable at low speeds.

As another example, Mr. Watson said that, while the last bus or train of the day often draws light ridership, many people are willing to stay out late and take a bus or train a bit earlier just having the

comfort that the last run is available afterward if need be. However, many people don't recognize that and he expressed concern elected members would campaign on a platform such as removing the final run not realizing its impact on ridership at other times.

Mr. Downey said most elected boards are terrible, with a couple being mediocre. He noted that some cities have had anti-transit activists seek election, and in one city, they took over the board entirely. Other people run solely with the ambition to reach higher office.

### **Representation by the State of Virginia**

There was considerable discussion of the recent request from the State of Virginia to NVTC to let the Governor appoint two of Virginia's members. Secretary of Transportation Sean Connaughton argued in a letter that the state is paying over half of the total cost of Metro and therefore is entitled to half the seats.

Mr. Schwartz argued that these numbers are incorrect, and only 20-30% is coming from the state.

Ms. Hanley noted that Mr. Connaughton is counting the add-on gas tax, which is only charged in Northern Virginia counties and collected by the state but sent directly to WMATA. She argued that is not really a state expenditure.

Ms. Hanley worried that state appointees would not be responsive to riders. She said she doesn't like a situation where Board members are appointed by any group that isn't responsive to the region's needs.

Mr. Schwartz added that "Richmond is distant in more than geographic distance."

Mr. Jaffe called Mr. Connaughton's request "alarming" because of "the remoteness and automatic built-in lack of accountability."

Mr. Watson said that the change in Maryland to members appointed by the governor was the worst thing that could happen from the riders' perspective in terms of Board membership. Montgomery and Prince George's gave up their representation for only 12.5% of the Metro funding each. He said that state appointees will not be as responsive to riders.

### **Other expansion of the Board**

In addition, Ms. Jeter suggested adding a representative of the workers to the Board.

Mr. Drummond advocated in his blog post for adding representation to the other jurisdictions, like the City of Fairfax or Loudoun County, which are not represented on the Board today except through NVTC.

Ms. Mack said that while it would be possible to add representation from different groups, there is no one set of individuals that would be best. Instead, the Board should focus on objectives.

Mr. Zimmerman noted that the WMATA Board is one of the smallest boards among U.S. transit agencies. He said that the system as originally devised in the 1960s ensures a voice by specific entities of government that needed representation, but was not so big as to be unwieldy.



Mr. Zimmerman added that the addition of 4 federal members makes the Board a bit less nimble, and that if the governance process results in opening up the Compact to changes, the result will likely be an even larger Board, since for example the State of Virginia wants representation but local jurisdictions need to be a part of it as well if they are funding the system.

Mr. Bradley said that while he was at the Connecticut Department of Transportation, the state was able to have its needs met regarding the New Haven branch of the Metro-North Commuter Railroad even though Connecticut did not have any seats on the MTA board. Instead, they worked with the staff of MTA and worked through the governors.

Mr. Bradley argued that the current Board structure is too large, noting that when he was in Connecticut the MTA Board had only 5 members. [It now has 17.<sup>11</sup>] He said this structure consumes a huge amount of time and takes away from staff carrying out their duties.

### **Federal appointments**

The federal government currently has two vacant spots on the Board. Some participants noted dangers if the government ends up appointing members from outside the region.

Ms. Watson expressed concern about the federal representation, noting that while he has no problem with Mr. Downey, at times NCPC (the National Capital Planning Commission) has had a chair from outside the region. He cited an attitude that Washington and the region somehow owe something to the nation and that it's appropriate for people from outside to come in and run local institutions.

Note: Mr. Downey lives in Vienna, Virginia, and Marcel Acosta, the federal alternate member, lives in the District.

### **Importance of attendance**

Many participants expressed a concern about the poor attendance of some members of the Board.

Mr. Dinegar said he hoped the RAC was as "chagrined" as the Board of Trade by the revelations in the *Washington Examiner*:

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<sup>11</sup> <http://www.mta.info/mta/leadership/board.htm>

## By the numbers Metro board of directors attendance

BOARD MEMBERS	JURISDICTION	MEETINGS	% MISSED*	FULL BOARD	% MISSED
		MISSED		MEETINGS MISSED	
Michael Brown**	D.C.-Alternate	52	66%	18	64%
Marcell Solomon	Md.-Alt: P.G.	42	51%	14	48%
William Euille	Va.-Alt: Alexandria	34	41%	8	28%
Neil Albert	District	24	29%	8	28%
Gordon Linton	Md.Alt: Montgomery	20	24%	6	21%
Jeff McKay	Va.:Alt-Fairfax	17	21%	5	17%
Marcel Acosta***	Fed.-Alt	5	19%	2	20%
Anthony Giancola	D.C.-Alt	15	18%	8	28%
Elizabeth Hewlett	Md.: P.G.	9	11%	2	7%
Jim Graham	District	5	6%	0	0
Mortimer Downey***	Fed.	1	4%	0	0
Peter Benjamin	Md.:Montgomery	1	1%	1	3%
Christopher Zimmerman	Va.: Arlington	1	1%	0	0
Catherine Hudgins	Va.: Fairfax	0	0	0	0

### LEGEND:

Alt.= Alternate member

\* Board members were not counted absent from a committee if they were attending another Metro committee meeting simultaneously, as occurred on Feb. 18 and April 8, 2010.

\*\* Brown was sworn in Jan. 29, 2009.

\*\*\* Acosta and Downey were sworn in Jan. 28, 2010.

Source: Metro board of directors' approved minutes, Jan. 8, 2009, through July 1, 2010

<http://www.washingtonexaminer.com/local/Metro-board-members-play-hooky-1005888-99658089.html>

Ms. Hanley said individual jurisdictions should make clear that Board membership is a time-consuming obligation, not an honor. It's a responsibility to run an operating agency, the same as the boards and councils in the jurisdictions.

Mr. Dyke called for accountability from Board members, including when members don't show up and don't participate.

Ms. Hanley added that if members aren't willing to show up for every meeting with some exceptions, the public should know and they should step down. She noted that being effective on the Board requires remembering decisions made at previous committee meetings or in previous years, and the reasons for those decisions. She said that Board members can't simply show up to cast votes and still be effective.

### Responsibility to ride the system

On February 22, 2009, the *Washington Post* wrote that "Half of Metro's 12 board members ... do not regularly ride the train or bus system they oversee. And even as members say they need to trim expenses and boost revenue, several haven't paid their parking fees at Metro headquarters for at least 2 1/2 years."

Mr. Drummond suggested requiring Board members to ride the system at least 3 times per week during the morning and evening rush hours, and requiring members to pay instead of getting free transit as they currently do.

Some committee members suggested that Board members should not be entitled to parking spaces at WMATA headquarters. Currently, they can park in the building, though there is a charge.

### **Is MWAA a model?**

Some who testified at the COG/Board of Trade task force, such as Bob Chase of the Northern Virginia Transportation Alliance, suggested looking to the Metropolitan Washington Airports Authority (MWAA) as a model.<sup>12</sup> Governance Committee members asked some participants what they thought of this idea.

Ms. Hanley said that she respects MWAA, and supported giving it the responsibility of building the Dulles line, but pointed out that MWAA has a dedicated revenue source in the airport and ticket fees, which means it doesn't have to rely on appropriations from any governmental entity. Therefore, she argued it is not a good model for Metro.

Mr. Schwartz said the comparison to MWAA seriously concerns him. He noted that MWAA has very little transparency, and the press does not report on its meetings. In fact, he said he checked their Web site and could find no information about the time or place of meetings. MWAA is receiving public revenue but is not accountable.

### **Regionalism?**

Mr. Dinegar asked the group if Board members representing individual jurisdictions could act with a "regional mindset." He wondered how members could go into a meeting and take off their "local hat" and put on the "regional hat."

Ms. Hanley noted that most riders don't work in the same jurisdiction in which they live. Therefore, strong regional cooperation is in the interests of all jurisdictions.

Ms. Hudgins said that many of her constituents might ride a bus and a train and then end up on a bus in DC. She wants them all to have a good experience, and therefore makes her decisions for all riders, wherever they start or end their trips.

Mr. Watson suggested more Board members attend hearings in other jurisdictions to get more of a sense of the opinions and concerns of riders elsewhere.

**Reactions:** Mr. DeBernardo noted that any members will be political if they are appointed by political people.

Ms. Walker suggested that the only difference is between people who are overtly political and those whose political interests are more "subterranean."

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<sup>12</sup> <http://www.mwcog.org/about/governancetaskforce/task%20force%20docs/nvta.pdf>

## Appendix B: Current WMATA governance

### Board composition

The Washington Metropolitan Area Transit Authority (WMATA) is governed by a 16-member Board of Directors. Four members represent the District of Columbia (DC), four the State of Maryland, four the Commonwealth of Virginia, and four the federal government. The federal members are new additions in 2010 and only two have been appointed thus far.

Of each four, two are Principal Directors and two are Alternate Directors. Each alternate is designated as the alternate to a specific principal. At full Board meetings, only principal members may cast votes. If a principal is absent, his or her alternate may cast the vote. In DC, the other alternate may also cast the vote if the designated alternate is not present.

This is the current composition of the Board:

Name	Juris.	P/A	Government position	Appointed by
Jim Graham	DC	Principal	Councilmember, Ward 1	DC Council
Michael Brown	DC	Alternate	Councilmember, at-large	DC Council
Neil Albert	DC	Principal	City Administrator	Mayor
Anthony Giancola	DC	Alternate		Mayor
Peter Benjamin	MD	Principal		WSTC/Governor
Gordon Linton	MD	Alternate		WSTC/Mont. Executive
Elizabeth Hewlett	MD	Principal		WSTC/Governor
Marcel Solomon	MD	Alternate		WSTC/P.G. Executive
Christopher Zimmerman	VA	Principal	Member, Arlington County Bd.	NVTC
William Euille	VA	Alternate	Mayor, City of Alexandria	NVTC
Catherine Hudgins	VA	Principal	Member, Fairfax Bd. of Sups.	NVTC
Jeffrey McKay	VA	Alternate	Member, Fairfax Bd. of Sups.	NVTC
Mortimer Downey	Federal	Principal		President/GSA
Marcel Acosta	Federal	Alternate	Executive Director, National Capital Planning Commission	President/GSA

Each jurisdiction has a different mechanism for appointing the members. In DC, the Council appoints the members, but by convention one principal and one alternate are chosen by the Mayor.

In Maryland, the members are formally appointed by the Washington Suburban Transit Commission, but in practice as a result of the state paying for the Maryland share of WMATA operating costs, the Governor selects both principal members, and the County Executive of each of Montgomery and Prince George's Counties appoint one alternate each.

In Virginia, members are appointed by the Northern Virginia Transportation Commission, a body with voting members from the various local jurisdictions in the WMATA Compact area (Arlington, Fairfax and Loudoun Counties, the Cities of Alexandria, Fairfax and Falls Church), members of the state legislature,

and a representative of the Governor. NVTC has always appointed principal members from Fairfax and Arlington Counties and alternate members from Fairfax County and the City of Alexandria.<sup>13</sup>

Federal members are appointed by the President of the United States through the General Services Administration.

## Board structure

The Board is headed by a Chairman. The current Chairman is Peter Benjamin. The First Vice-Chairman is Catherine Hudgins and the Second Vice-Chairman is Neil Albert.

The chair rotates by convention among the six voting slots, so each jurisdiction has a member serving as chair once every three years, and each individual member is chair once every six years. The First Vice-Chairman has always [?] been elected Chairman and the Second Vice-Chairman elected First Vice-Chairman. At times, the chair has even been a member who just joined the Board, as in 2007 when Elizabeth Hewlett replaced incoming Chairman Charles Deegan and immediately became chair.

However, the Compact does not require this process. The Board simply elects a chair each year, and can choose based on any criteria they wish.

Much of the work of the Board takes place through committees. Alternates who are designated members of committees have the same voting privileges in that committee as principal members. Some committees are “committees of the whole,” where all 14 (currently) Board members are members of the committee, while others only comprise a subset of the Board members.

Current committees are:

Name of Committee	Chair	# members	Public meetings?
Safety and Security	Mortimer Downey	14 (whole)	Yes
Joint Development & Real Estate	Jim Graham	14 (whole)	Yes
Customer Service & Operations	Christopher Zimmerman	4 + chair	Yes
Finance & Administration	Catherine Hudgins	5 + chair	Yes
Policy, Program Development, & Intergovernmental Relations	Neil Albert	4 + chair	Yes
Technology Review Subcommittee	Anthony Giancola	2 + chair	No
Audits & Investigations Subcommittee	Anthony Giancola	3 + chair	No

The Board chairman is an ex officio member of all committees and subcommittees.

This committee structure changes from year to year and sometimes within years. For example, in 2009, all committees (at least those that met publicly) were all Committees of the Whole. In September 2010, the Board voted to establish a new Safety & Security Committee and rename the Customer Service,

<sup>13</sup> <http://www.thinkoutsidethecar.org/pdfs/Wmata%20Governance%20Issues%20%5BCompatibility%20Mode%5D.pdf>

Operations & Safety Committee to the Customer Service & Operations Committee at the suggestion of the National Transportation Safety Board (NTSB).

## **Board meetings and procedures**

The Board meets monthly on a Thursday, usually the fourth Thursday of the month. Monthly meetings of the Board are open to the public. Audio is broadcast over the Web and archived audio posted afterward. The agenda for the Board meeting is typically posted the Friday before the meeting, though sometimes agenda items are not posted and instead a note is posted saying that materials will be made available at the meeting itself.

There is a public comment period at the beginning of each meeting, where members of the public are permitted to speak for up to two minutes each. The Board reserves the right to limit this period if many people sign up. Members of the public are only permitted to speak once in any three-month period.

Committee meetings have no public comment period. Some committee meetings are public like full Board meetings in that their dates are listed on the publicly accessible calendar and members of the public may attend. Audio is broadcast and archived like full Board meetings. Other committees never have their meetings announced publicly and do not post agendas or audio.

## **Advisory committees**

The Board is formally advised by three outside groups. The Riders' Advisory Council (RAC) is made up of 21 riders (currently 20 with one vacancy), 6 each from DC, Maryland, and Virginia, two at-large, and the chair of the Accessibility Advisory Committee.

RAC members are appointed by the Board, technically as a whole but in practice by individual members based on their jurisdiction. Members serve staggered three-year terms and may serve for up to four full terms. The RAC elects a Chair from among its membership and one Vice-Chair from each of DC, Maryland, and Virginia.

All RAC meetings are open to the public and, beginning in September 2010, audio is posted online following the meeting. Agendas are posted online in advance. The RAC meets once a month on the first Wednesday of each month. In addition, the RAC has a number of ad-hoc and standing committees that hold additional meetings, also open to the public.

The RAC chair or a designee makes a monthly presentation to the Board at its full meeting. The RAC often also approves letters or resolutions which are sent to the Board.

The Accessibility Advisory Committee (AAC) also combines members from DC, Maryland, Virginia, and at-large members, and advises staff and the Board on issues affecting riders with disabilities.

The Jurisdictional Coordinating Committee (JCC) is made of representatives from the local and state governments, usually their departments of transportation. The JCC's members also typically serve as staff to the jurisdictions' Board members advising them on matters of policy. Therefore, JCC meetings

often explore policy issues that cross jurisdictional lines or provide staff with early input on how Metro projects would interact with jurisdictional efforts and priorities.

There is some question about whether JCC meetings are technically public, but in practice they are not as their agendas and meeting dates are not posted. Agendas and minutes are provided to Board members but not to the public.

## Staff

The Board of Directors hires a General Manager who manages all WMATA employees with only a few exceptions: the Office of the Board Secretary, the Inspector General and staff, and the General Counsel. WMATA has no permanent General Manager at the moment. The Interim General Manager is Richard Sarles. A search is underway for a permanent General Manager.

## Funding

WMATA receives its funding from fares and from jurisdictional subsidies.

WMATA has no dedicated revenue source, such as a local tax or tolls, under its control. All funding other than fares must come from federal, state or local governments.

The District of Columbia, functionally a state, pays its contributions from the District general budget. The State of Maryland pays the costs of WMATA subsidies from state transportation funds.

In Virginia, local governments pay most of the costs of subsidies. According to NVTC, the state government currently pays 28% of Virginia's WMATA funding.<sup>14</sup> Some additional funding come from dedicated taxes, such as an add-on gas tax, which is charged in Northern Virginia jurisdictions and collected by the state but dedicated to transit in Northern Virginia. Finally, the remainder of the subsidy is paid out of general revenues by the individual jurisdictions (currently the Counties of Arlington and Fairfax and the Cities of Alexandria, Fairfax and Falls Church).

The federal government pays no ongoing operating costs. It contributes capital funding under a recent agreement, \$150 million per year matched by DC, Maryland, and Virginia for \$50 million each. Congress must appropriate the money each year, and has done so once so far. Future years' funding will depend on Congress's leadership, the interests of appropriators, and budget pressures.

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<sup>14</sup> <http://www.thinkoutsidethecar.org/pdfs/WMATA%20Governance%20Issues%20%5BCompatibility%20Mode%5D.pdf>