



BUSINESS AND INDUSTRY SUB PANEL MEETING

April 2, 2009

Charlottesville or Conference Call

WELCOME

Marc Follmer opened the meeting by thanking members for attending in person or on the conference call. Marc facilitated the meeting in lieu of Leigh Middleditch's absence.

Marc made a personal announcement that his duties in the Governor's Office have been re-assigned to now include the duties of the Deputy Counselor and his title has changed to Senior Advisor to the Governor, but that he expects to continue his role in the sub panel. Marc would like to see the many initiatives of the sub panel through to the end of the Administration.

Marc introduced the new members:

- Jim Redick, Office of Emergency Management for the City of Virginia Beach
- John Milam, Chief Executive Office, Dynamis
- John Braun, Vice President, Teledyne Technologies
- Derek Rowan, President, Ascentra LLC

NEW BUSINESS AND INDUSTRY LEGISLATION

The Business "Good Samaritan" legislation will become law on July 1. This legislation provides civil immunity for private and charitable organizations providing resources and assistance, without compensation, pursuant to a governor-declared emergency or during a formal emergency management training exercise, and at the request of the State Department of Emergency Management or a local emergency management employee. The immunity would not apply in instances of gross negligence, recklessness, or willful misconduct.

This legislation was created to address the previous confusing language of liabilities and immunities for businesses during emergencies.

The Virginia Trial Lawyers Association was contacted last October for their review of the draft legislation. The Association proved very helpful by pointing out concerns and crafting compromises.

There were several important changes to the legislation since the last time the group met.

The legislation protects businesses or non-profit organizations that provide resources or personnel through a Governor's Declared Emergency or at the request of the Virginia Department of Emergency Management or through local emergency management agencies. Such requests could include equipment needs or bottled water delivery. The protection/liability covers death, injury, property damage, but the services provided must be acting within the scope of the requested service.

The protection is also extended to formal training and exercises. Many businesses may have a simulated emergency scenario, in which case the protection is covered for those involved with the training or exercise event. Table Top exercises are not covered under this legislation.

Protection does not extend to gross negligence or willful misconduct. Product liability still exists for manufactures or companies substantially involved in the manufacture of the products. If a piece of equipment malfunctions and injures someone, the manufacturer would have that liability and responsibility.

A question was raised about training and exercises. Would an organization need a sponsor for the training exercise in order for it to fall under this legislation? No, it states directly in the legislation, "during a formal emergency management training exercise". Also, local governments use the Homeland Security Exercise and Evaluation Program process which involves several meetings before the exercise with critical players including the state.

Marc thanked the Retail Merchant's Association, Richmond/Charlottesville Chamber of Commerce, the Virginia Hospitality and Travel Association, Independent Insurance Agencies of Virginia, Wal-mart, Home Depot, Attorney General's Office and the Virginia Trail Lawyers Association for all their help on the Business Good Samaritan legislation.

2009 PREPAREDNESS TAX HOLIDAY PLANNING

The Preparedness Tax Holiday is scheduled this year on May 25-31. This will be the second annual Preparedness Tax Holiday where purchases of items designated by the Department of Taxation as hurricane preparedness equipment, including portable generators, will be exempt from the Virginia sales tax. The Department of Taxation has a list of items on their webpage at

<http://www.tax.virginia.gov/site.cfm?alias=HurricanePreparednessEquipmentHoliday>.

Laurie Aldrich from the Retail Merchant's Association and staff from the Department of Emergency Management have been working hard to promote this year's holiday event since last year's event had very little participation.

- The Department of Emergency Management has reached out to four major newspapers (*Virginian-Pilot*, *Daily Press*, *Richmond Times-Dispatch* and *Roanoke Times*) to run ads at reduced cost or with extra runs.
- Public radio stations have been contacted to play public service announcements.
- A joint news release will be issued advertising the event.
- The Governor's scheduler has been contacted for a press event involving the Governor and First Lady shopping for preparedness items.
- The Hispanic Chamber of Commerce have been contacted to encourage information sharing.
- Requested stores to display a checklist and put the preparedness logo sticker on items that are tax exempt.
- The financial community is assisting by placing the preparedness logos on bank statements, mortgage statements, and even credit card bills.
- Dominion Power will feature the Preparedness Tax Holiday in their connection newsletter sent with client's invoices.
- Flyers will be given to merchants or bank tellers for distribution reminding consumers of this holiday.
- Web banners have been developed for use on web pages.
- A small ad (either color or black and white) will be used in newspapers.

Laura Aldrich, President of the Virginia Retail Merchant's Association, noted that retailers are prepared and are gearing up. A significant marketing effort will be out in force in stores.

If you need any brochures, flyers, web banners, or sample ad please contact Marc Follmer.

Derek Rowan, President of Assentra, LLC, will try to promote this event through the Citizen Corps Councils in Northern Virginia. He will definitely provide the above information to the National Capital Region and Department of Homeland Security Citizen Corps Councils as well.

Businesses should review the list closely, companies like CVS may have more items on the list than they originally thought.

CREDENTIALING TASK FORCE

Dan Jenkins chair of the Credentialing Task Force reviewed the background and the status of the project. This task force is focusing on the community recovery. The business credential will allow for businesses to legally enter disaster zones quickly and continue with the community's recovery efforts.

Business Credentialing is a web based system managed by the Virginia Emergency Operations Center (VEOC). Once the disaster occurs and the recovery begins, the VEOC can unlock the system and allow the locality to begin using it and producing a uniform credential used statewide. The system would hopefully avoid the problems Louisiana and Mississippi had with Hurricane Katrina using a different credential for each jurisdiction.

This system will make it easier for law enforcement or the National Guard to recognize one credential not several.

It is very important for businesses to get the opportunity to re-enter the disaster zone in an orderly way that meets with first responder's approval. Many law enforcement organizations have issued endorsements of this system. It will not be a perfect system and it must be flexible in order to act quickly. We have come a long way and taken several giant steps forward.

The VEOC would manage and control the system. In coordination with localities, the VEOC would authorize a phased approach to re-entry.

The task force looked at the Department of Game and Inland Fisheries' Boat Registration system; however, that system would require large modifications and cost time and money. Marc Follmer has found a developer that has a system already in place that requires little modification. This developer also has a computer program for the Business Resource initiative, which catalogs resources available during a disaster, i.e. nurses, buses, parking lots as staging areas, etc.

The big issue is how we are going to pay for this system. One idea is for businesses to underwrite the cost.

Marc Follmer reviewed the Screen Shot Slide Show.

The first part of the program will allow organizations to register, identify the chief executives, emergency contacts and other critical personnel. There are no limits to the number of personnel a business can register. Moreover, personnel can be entered at any time during the process including after a disaster has occurred and the system is in use. The individuals will not be vetted, but VEOC will have a link to the State Corporation Commission to make sure the business is licensed to do business in Virginia and is in good standing.

Users will need to complete a security validation code to limit spammers.

Once you click submit, a directory is established. A question was asked if others could see your directory or just the organization. The VEOC will be the only entity that could see all the directory entries. The business will only see their own directory not others. The VEOC will be the key to validate and send information to the localities if they have questions.

Upon completion of registration, an email will be sent to the company's identified emergency contact(s) to provide information, allow them to test the connection and periodically ask if there are any changes to their information.

Users will need to create a user name and password. This is individual to each emergency contact.

Marc then reviewed the Mock Credential. The credential will include the following security measures:

- Incident Name (this will change with every new event)
- Incident ID # (this will change with every new event)
- Designated Image (this will change with every new event)
- Expiration Date (14 days is the default date, but the date is set at the discretion of the VEOC).

The issue number will be a combination of digits in your driver's license number that are scrambled in a pre-set order. So the security checkpoint will look at your driver's license number and match it with the number on your credential. The scrambled order will also change with every new event.

Credentials are produced and printed immediately. A watermark is used as the designated image because it is difficult to copy.

The Entry Tier of your credential is based on which category under which your services/organization falls. For example, restoration of power might be Tier One, larger retailers/pharmacies might be labeled as Tier Two, etc.

The credential has space at the bottom for inclusion of bar codes if scanners are more readily accessible to security checkpoints.

A question was raised about local governments communicating with each other. The VEOC uses conference calls, Virginia Criminal Information Network secure teletype, and Mass Facsimile during events to keep localities informed.

Sheriff Draper noted it was good work and the bases seemed covered.

The question now is how to fund it. Discussion with Department of Game and Inland Fisheries about modifying their system gave an estimated cost of \$500,000. If we use this web-based contractor system, it would be leased and not owned. An estimate cost is \$50,000 for licenses and 2 years for maintenance – to stand up the system. We would solicit money from businesses to cover the first two years and once the economy gets back on track, the state will absorb the cost of \$8,000 - \$10,000 yearly maintenance fees.

A question was raised about the security of having a contractor host the site? There are concerns in making sure the data stays confidential. Contracts for this system have not been reviewed as of yet, but there is some due diligence involved. What happens if the system goes down? The contractor does have a back up system 30 miles away (Kansas) and has hardened their structure to protect against a category 3 tornado. Marc Follmer will follow up with businesses in New Jersey and Missouri who have used this contractor for a reference. Tina Ayiotis, Counsel for CSC, volunteered to review the contractor information and contracts.

Some businesses have stated their contributions must be made to charitable organizations. The Commonwealth is not considered a charitable organization and is unable to receive donations. Marc is working with the Virginia Capitol Foundation and the Commonwealth Homeland Security Foundation to act as a fiscal agent for the project. Businesses would be able to contribute money to the foundation and the foundation would pay the invoices for contractor costs.

A question arose about the type of paper on which the credentials should be printed, e.g. cardstock. Marc stated that since the individual business will print their credentials it is up to the discretion of the user. The system will be designed to print 2 credentials per 8 ½ x 11 paper.

Mike Jones, former deputy chief of the Capitol Police, suggested the credential contain language specifying the unlawful use of this credential is a crime punishable by law and stated there is standard language for law enforcement cards. Marc agreed that was a good idea and will add the standard language.

EDUCATION TASK FORCE

Mary Loose DeViney, chair of the task force, provided the report. The task force has been concentrating on developing an interactive website to assist small business continuity planning. Mary and Marc have been working with Dr. Jason Levy of VCU and his homeland security class on questions for the interactive website that will help small businesses produced a continuity plan. These students are very knowledgeable, bright and motivated. James Madison University is also interested in participating in the project.

The Business Continuity Plan website screen shots were reviewed.

The program will begin with a basic introduction. Graphics will be added later. Questions are asked to gently gather information in the decision tree process and hook the person to go through the entire web program. Users will be given a score on their scale of preparedness. This might be a duel edge sword. If the company gets a high score, then they might think there is nothing left to be done to be prepared.

The next phases of the website, ask questions about the business such as history, location, building ownership, real property, insurance coverage, and threats. There are simple radio buttons to move through the program quickly. You are given a risk analysis score to draw you in and do more of the program. The questions get more specific and will provide for data input such as contact lists for employees, suppliers, customers, emergency response, etc. At the end of the program a business should have enough information for a basic Business Continuity Plan. The program will have a template set up so the Business Continuity Plan can be printed by the business.

A suggestion was made to have a link in the program to the Department of Emergency Management's website and their National Hazard Mitigation Plan and other plans to let users know of their existence.

The ultimate goal is to make the program simple, easy to use and not intimidating. It will be a great tool for small business – a sector that does little if any business continuity planning.

INFORMATION SHARING TASK FORCE

Fred Vincent was not able to report out on the task force, but Marc Follmer noted that the work on the information sharing task force is slow, but steady. The objective of the task force is to provide a secure site for the business community to receive and share information with the Commonwealth of Virginia. The task force would like to have a sub portal on the Homeland Security Information Network (HSIN); however, the HSIN is undergoing changes and this has slowed progress. There are also the issues of time and funding for this project, but the efforts will continue.

PRIVATE SECTOR PREPAREDNESS

As part of Public Law 110-53, *Implementing the Recommendations of the 911 Commission Act of 2007*, Congress directed the Department of Homeland Security to develop a voluntary preparedness accreditation and certification program for businesses. The program, now called PSPREP for Private Sector Preparedness, is meant to establish a common set of criteria for private sector preparedness and certifies businesses are prepared. Marc Follmer attended the latest public meeting in February in DC and reports this effort is moving slowly and may not be fully implemented soon. The meeting disclosed general disagreement among participants and other stakeholders about standards and certification requirements.

COMPUTER WORM TOOL

The Department of Homeland Security (DHS) released a bulletin on March 30 on computer worm detection tools. DHS has developed detection tools that can be used by the federal government, commercial vendors, state and local governments, and critical infrastructure owners and operators to scan their networks for the Conficker/Downadup computer worm. DHS recommends that if you do not have Microsoft's MS08-067 patch on your system, to immediately install it for protection. Users can apply a simple test for the presence of a Conficker/Downadup infection on their computers.

IRS ISSUES

Marc Follmer attended an IRS Small Business Seminar last month and passed along the following:

- If businesses have loses due to Bernie Madoff type ponzi schemes, these loses are not reported as investment loses, but are treated as theft loses. They are carried forward and not subject to the 10% gross income rule.
- Expanded COBRA benefits.
- The Department of Labor has highlighted an issue involving prevailing wages. Construction projects financed in whole or in part with federal structure funds will have to pay workers the prevailing wage, which may be more then minimum

wage. You can access the Department of Labor website to preview your area's prevailing wage.

PANDEMIC PANIC

An article published in the *Washington Post* entitled "Five Myths about Pandemic Panic" tries to make light of the pandemic threat and planning efforts. Marc spoke with the Virginia Department of Health who strongly caution that pandemic planning is still a concern and a focus for the Centers for Disease Control and the World Health Organization. Infectious diseases/viruses can spread quickly and businesses need to be aware this is still a threat and businesses must plan accordingly.

MEMBER COMMENTS

Mike Jones, Homeland Security Director for William H. Gordon Associates and Town Manager of Chatham spoke on the importance of security concerns when planning construction projects. With the Stimulus money available, there is a golden opportunity to replace crumbling infrastructure. Security needs to be a key concern when reviewing and approving these projects. Mr. Jones talked about his experience as Town Manager in Chatham with their water emergency. Consider the safety issues – think about your vulnerabilities - when planning to improve infrastructure projects.

Marc commented that the Virginia Department of Transportation does have a process in place to review all transportation projects for security issues before the project is approved. He is not sure if the Department of General Services (who are responsible for state buildings) do the same.

Dan Jenkins noted that prior to September 11 events, regulations were enforced for power plants and nuclear plants to perform vulnerabilities assessments. These assessments are done daily and very sophisticated, but easy to learn.

Tina Ayiotis noted concerns about managing and controlling contractors with confidential information.

Jim Reddick asked a question about the Virginia Critical Infrastructure Protection and Resiliency Plan and if that plan has trickle down to the private sector. Marc Follmer explained that Mike McAllister from our office is working hard on the sector specific plans and will ask him to brief the sub panel at the next meeting.

Marc Follmer thanked everyone for their participation and adjourned the meeting.