

Secure Commonwealth Panel  
Business and Industry Sub-panel Meeting  
December 2, 2008

Leigh Middleditch - Chair

A meeting of the Secure Commonwealth Panel's Business and Industry Subpanel was held on December 2, 2008 at the Charlottesville office of McGuire Woods. Leigh Middleditch acted as Chair of the meeting and Marc Follmer acted as Secretary.

Following opening remarks by Mr. Middleditch, Mr. Follmer introduced the new members of the Business and Industry Sub Panel:

- Cynthia Deveraux, Petersburg Chamber of Commerce
- Mary Rudisill, Capital Relocation Group
- Richard Grossman, Vectre Corporation
- Sally Feltner, Greater Richmond Chamber
- Daniel Mortensen, Capital One
- Terri Hargrove, Virginia Cable Telecommunications Association
- Robert Collins, Wal-Mart (Kelly Hobbs has left Wal-Mart to take a job with Bank of America)

### **Liability Protections for Businesses and Non-Profits**

Mr. Follmer provided an update on the potential legislation regarding liability protection for businesses and non-profits that assist the Commonwealth in emergency recovery activities. The current emergency management laws provide protection for individuals but the language is unclear about the protection of the employers who participate in recovery activities.

The draft legislation provides immunity from civil liability for entities that provide assistance to the Commonwealth provided:

1. The Governor has declared an emergency to exist; and
2. A member of the Commonwealth or local government responsible for emergency management has requested assistance from the entity in question.

The draft legislation document has been emailed to subpanel members for discussion. The draft legislation is not final and is still being discussed within the Governor's Office.

The draft legislation has been provided to the Virginia Trial Lawyer's Association for their review. They have not provided formal comment as of yet, but conversations with them indicate they would like to see the protection tighten. For instance, the Trial Lawyer's Association mentioned whether training and exercises should be covered. Mr. Follmer pointed out that "you only play as well as you practice" and that states have difficulty attracting companies to training exercises. Additionally, training tends to expose unknown issues and consequences. Providing liability protections would in convincing some companies to participate.

### Sub Panel Discussion:

Mr. Middleditch suggested dovetailing this new legislation with a blanket section of the *Code of Virginia* which covers participation of non-profit protection (Good Samaritan legislation), but excludes such things as criminal offenses. Without this new legislation and protection, it would be a deterrent for companies to participate in disaster response.

Also, mentioned were the recent emergencies of Hurricane Gustav, etc. We need to monitor issues that may arise from the after action reports on those storms for possible issues/modifications to the legislation but keep going forward with this legislation.

Mr. Follmer commented that 19 other states have, or are pursuing, liability protections of this type. Other states (South Carolina and Florida) have taken a different approach and required companies to sign memorandums of agreement with their emergency management agencies so they the companies and their employees become state employees. This would afford the companies the protection of the state's sovereign immunity. The downside to this approach is that the Commonwealth would be limited to working with those companies with which it had a signed agreement.

Once a bill number has been established for our legislation, we will let you know so you can assist with support.

### **2009 Preparedness Tax Holiday Planning**

Last spring marked the inaugural Preparedness Tax Holiday. Unfortunately the holiday had limited participation. The Department of Taxation was unable to provide definitive guidance to retailers on the details of the tax holiday until shortly before the holiday. This hurt the ability of retailers to advertise the holiday and which items were covered. This year we are doing more advance planning to increase public participation. The Retail Merchants Association is interested in in-store displays advertising the tax holiday and providing preparedness equipment. Dominion Power will consider including a message in their customer statements on the preparedness tax holiday. We would like to work with others on promoting this holiday to expand participation.

### **Credentialing Task Force Report**

The credentialing effort has been renamed from PAS to Priority Access Stakeholder System (PASS). At the moment, the project has stalled until funding is found. We are in the process of seeking out a number of different avenues including corporate and private foundation funding. The Target Corporation has approved a small corporate grant, but we are trying to establish a relationship with non-profits and foundations. Marc Follmer met with Waite Rwalls of the Museum of the Confederacy to see how best to approach private foundations.

Mr. Follmer stated he has had conversations with a few larger partners about becoming the lead donor for the project. The lead donor would take on the programming responsibility for the project with their in-house IT people. Ideally, the lead donor would have a 501(c)(3) entity to which other corporations could provide cash donations to the project. The lead donor would complete the project with VEOC input and then donate the finished product as their contribution.

Mr. Follmer said he would solicit advice from the Department of Taxation to determine if the donation of the system would qualify for a tax reduction.

Mr. Middleditch raised the question of local municipalities support for the project. Mr. Follmer mentioned that the Virginia State Police have issued a letter of endorsement on the PASS and feel the PASS benefits first responders. As for local government, they like the consistent process it has and could take the pressure off many of their checkpoints. Mr. Follmer has spoken with several local government representatives and has received no negative feedback. Local governments would be in control of the system and the decision of how and when to admit businesses. The PASS simply provides them a consistent process for working with their area businesses on re-entry. Mr. Follmer added that if the local businesses register for PASS the local governments would be pushed to support it.

This system will be more fully explored in the seven Regional Preparedness Advisory Committee meetings next year.

### **Education Task Force Report**

The goal of this taskforce is to educate the businesses on the importance of the business continuity of operations plan. We need to give them a tool to work with, like Turbo Tax, pose questions and allow the business to fill in the fields. Once completed, they can hit the print button and their plan is done. MADRA, the contractors working on the education modules have informed us they will not be able to donate any further time to the project.

What is needed is a web developer. Ms. DeViney sent a letter to the University of Virginia and Piedmont Community College asking for their support and offering this initiative as an academic project, but has received no response. Marc Follmer will follow-up with a letter on Governor's stationary. Ms. DeViney is in contact with an individual who is retired Navy and works with the Thomas Jefferson Health District on helping with web development.

Mr. Follmer informed the group that he had received a message from Evan Smith of Exxon Mobile that the company would provide us their template Exxon uses to gauge the preparedness levels of its subsidiaries regarding disaster preparation.

Mr. Follmer has also been in contact with Brian Koon of Wal-Mart to determine if Wal-Mart is working on a standard business continuity plan for their suppliers Mr. Koon stated Wal-Mart is undertaking such a plan but it is in the embryonic stage. Once the program is up and running, it will be shared with others.

Mr. Follmer mentioned he had attended the American National Standards Institute October meeting, which featured panels on standards and the business case for certification. The Department of Homeland Security has chosen ANSI to design the standard for the new voluntary business certification requirements. Mr. Follmer expects elements of National Fire Protection Association standard 1600, on which we were basing our project, will be incorporated into the final standards.

Marc Follmer spoke to the Association of Continuity Planners on providing their expert commentary and hopefully providing sponsorship for the project.

## **Information Sharing**

There is a recognized need for state and local governments to talk with the private sector, especially in critical infrastructure. This possibly could be accomplished using a program similar to the statewide alert notification process where businesses can sign up to receive email or text messages on an upcoming emergency/event. Also there is a need to establish a web based program where businesses can go online to view pertinent information specific to their interest. There are two methods currently being used for state government that might be able to help establish a system for businesses to receive critical messages.

1. The Virginia Statewide Alert Network (SWAN) delivers important emergency alerts immediately.
2. The Citizen Alerting Process gives those who sign up a message of importance about an emergency/disaster. It can be particular to your jurisdictions, such as Virginia Beach residents will get messages regarding hurricanes.

Costs associated with creating/developing this business alerting system is being looked at and a timeline is being crafted.

There is a “next generation” system that will be established based on the Homeland Security Information Network (HSIN) which is a computer-based counterterrorism communications system that allows all states and major urban areas to collect and disseminate information between federal, state, and local agencies involved on homeland security information. The next generation effort will include a business and industry section regarding their critical infrastructure key resources. However, the system is 18 months to 2 years away before they can roll it out. Virginia is helping DHS with a pilot program on how emergency management needs will be included in the next generation system.

### **Outreach – Marc Follmer, Office of Commonwealth Preparedness**

The Business and Industry Sub Panel has established their own section on the Office of Commonwealth Preparedness webpage and can be found at [http://www.ocp.virginia.gov/Governance/SCP\\_biz\\_ind\\_subpanel.cfm](http://www.ocp.virginia.gov/Governance/SCP_biz_ind_subpanel.cfm).

This is a nice opportunity to share member lists, taskforce descriptions, meeting minutes, articles, and a calendar of events.

If you have any ideas, please feel free to submit them.

The Business Executives for National Security have invited Mr. Follmer to join a coalition to organize a nationally-recognized, independent public benefit organization (PBO), dedicated to facilitating and sustaining public-private collaboration toward the goal of American resilience.

The PBO will be an independent, non-partisan, not-for-profit corporation that serves as a national resource for supporting businesses, government, private organizations, and communities in establishing and sustaining private-public partnerships that strengthen American preparedness and resilience.

President-Elect Obama’s Transition Team has received been very interested in the PBO and information has been provided to incoming DHS Secretary Janet Napolitano’s staff.

Marc Follmer spoke to the annual meetings of the Virginia Chamber of Commerce and the Virginia Retail Merchant's Association about the subpanel and its three initiatives. Both constituencies expressed positive remarks on the efforts and agreed to provide support to increasing awareness among its membership.

There being no further business, the meeting was adjourned.