

Montgomery County Green Bank Board of Directors Meeting

Tuesday November 29, 2016 at 2:30 pm

Montgomery County Chamber of Commerce | 51 Monroe St, Suite 1800 | Rockville, MD

DRAFT Meeting Minutes

1. Call to Order

MCGB Chairman Bert Hunter called the meeting to order at 2:38 pm.

2. Roll Call of the Board of Directors

Roll call confirmed the attendance of:

- Hope Brown, VP and Chief Compliance Officer, Calvert Funds
- Lisa Feldt, Director, Montgomery County Department of Environmental Protection (DEP)
- Michael Gergen, Partner, Latham & Watkins (by phone)
- Bert Hunter, Executive Vice President and Chief Investment Officer, Connecticut Green Bank
- Brian Marconi, Senior Manager, Cohn Reznick LLP (by phone)
- Zachary Marks, Assistant Director of New Development, Housing Opportunities Commission
- Bonnie Norman, Principal, Chief Marketing Officer, E3 International LLC
- Bill Parsons, Executive Director, JDRF
- Bob Sahadi, Director, Energy Efficiency Finance Policy, Institute for Market Transformation (by phone)
- Stacy Swann, Founding Partner, Climate Finance Advisors LLC
- Alex Espinosa, Director, Montgomery County Department of Finance

Quorum met.

Other meeting attendees included:

- Alex Kragie, Program Director, Coalition for Green Capital
- Michelle Vigen, Senior Energy Planner, Montgomery County DEP
- Stan Edwards, Division Chief, Montgomery County DEP
- Lindsey Shaw, Energy Program Manager, Montgomery County DEP (by phone)
- Mary Casciotti, Senior Management and Budget Specialist, Montgomery County Department of Finance
- Katie Kellenberger, Special Assistant, Coalition for Green Capital

Guests:

- Elizabeth Malone, Montgomery County League of Women Voters
- Art Brodsky, formerly of County Executive's Office
- Alan Zang, Customer First Renewables
- Michael Dow, Womble Carlyle
- Nalin Meegama, Continental Capital

3. Approval of Agenda

Mr. Parsons moved to approve the agenda. Ms. Norman seconded. The agenda was approved unanimously.

4. Approval of October Meeting Minutes – 5 minutes

A MOTION TO APPROVE, the minutes of the Board of Directors Meeting for October 20, 2016.

Mr. Hunter asked that the section which discusses a conversation about HOC projects be revised to include his comment about MCGB investment being additive in terms of energy savings impact.

With that amendment, Ms. Norman moved to approve the proposed meeting minutes. Ms. Brown seconded. Minutes were approved unanimously.

5. Administrative Business

Staff Report

Staff recognized the exceptional work that MCGB pro bono counsel Womble Carlyle has been performing, especially with the preparation of the MCGB's Form 1023 document for submission to the IRS. Mr. Kragie discussed the briefing documents that the Product Development Work Group (PDWG) created out of meetings with experts in Connecticut and Michigan and noted the six briefings were in the Dropbox for the board to review if they so desire.

Mr. Kragie also noted that the BOD's at-a-glance dashboard, which is located on the Google drive, has been updated and is intended to provide full visibility across the organization. Mr. Hunter requested the links also be put on the at-a-glance dashboard, which staff committed to do. Ms. Vigen noted both Dropbox and the dashboard have been updated and amended to include all relevant files. Ms. Vigen noted that there are meeting folders, work group folders, and BOD meeting folders in the MCGB Dropbox.

Staff discussed an upcoming trip to New York to meet with New York Green Bank staff, New York City Energy Efficiency Corporation (NYCEEC) staff, and the Chair of Energy and Finance for New York. Staff extended an invitation to board members to join the meetings either via phone or in person to the board. Ms. Swann requested the categories of questions for the December meetings be made available to the board ahead of the trip. Mr. Parsons requested that staff ask about relative benefits of a programmatic vs one-off project approach. Mr. Kragie stated that in addition to a broad overview, the following include the question categories: programmatic, operational, and legal.

Upon Mr. Hunter request, staff discussed the pro bono arrangement with Julia Philpott. Ms. Vigen noted that Ms. Philpott offered help and assistance with documentation; a pro bono agreement is in the process of being signed.

DEP Staff Report

Ms. Vigen noted that Empower Maryland hearings were completed, but an order from the Commission has not come out yet. She is optimistic about the possibility of a full-fledged natural gas

program, which Montgomery County supports. Because there is concern about the Commission's continued support of the 2% energy efficiency goal, some advocates are exploring legislative options.

Ms. Vigen said that the RPACE study has been wrapped up, with a recommendation to not pursue RPACE legislation this year. Three stakeholders were unable to come to consensus: companies that would run the process, the jurisdictions, and the banking association (which has major concerns regarding the Federal Housing Finance Authority's guidance on RPACE).

On the topic of merger funding for the MCGB, Ms. Feldt and Ms. Vigen will meet with the County Executive on December 19th to discuss the partial release of merger funds for the MCGB. Ms. Vigen and Ms. Feldt are cautiously optimistic that the organization will see a partial release of funds. Of all the programs the merger dollars are set to support, DEP believe the MCGB is best positioned to receive the funds. There will be more detail on the specific amount after the meeting on the 19th, after which DEP will share an update and the proposal. Montgomery County is also pursuing funding provided through the Most Favored Nation clause in their Settlement Agreement, which provide benefit proportionate to that of another jurisdiction, in this case, DC received more benefit per ratepayer.

FY17 Meeting Dates

Staff has confirmed dates for the 2017 meetings and the location will be at the Montgomery County Chamber of Commerce.

- Thursday, January 26, 2017 from 9:00-12:30 and 1:30-5:00pm - Montgomery County Chamber of Commerce (Will be an all-day event with a strategic planning session and hopefully catered lunch)
- Wednesday, February 22, 2017 from 1:30-5:00pm- Montgomery County Chamber of Commerce
- Wednesday, April 5, 2017 from 1:30-5:00pm- Montgomery County Chamber of Commerce
- Wednesday, May 10, 2017 from 1:30-5:00pm- Montgomery County Chamber of Commerce
- Wednesday, June 14, 2017 from 1:30-5:00pm- Montgomery County Chamber of Commerce

To support the development of the annual work plan and budget, both of which are due to be adopted by June 30, 2017, the end of the fiscal year, the January meeting will include a planning session including a facilitated discussion on the mission and direction of the MCGB. Mr. Hunter noted that materials will be sent out well in advance, and that those members who cannot make that portion of the day, should offer any feedback they have prior to the session.

Ms. Vigen also added that the Montgomery County Chamber of Commerce has enthusiastically offered their space to the MCGB and would like to facilitate a meet and greet between their board of directors and the MCGB BOD. The February 22nd meeting coincides with their board meeting. Staff will work with the Chamber and Board Leadership to coordinate an opportunity for the two boards to meet.

6. General Business

Product Development WG

Work group lead Mr. Sahadi said that the MCGB would ultimately like to have a full product menu, but since it is constrained in the near term by having no permanent staff the Product Development Work Group is looking at products that can get off the ground sooner and with less in-house resources. The group thought about serving the commercial sector, but tabled it for a while because the county is aggressively involved in Commercial PACE.

The work group has settled on the most effective and accessible options for early MCGB products, multifamily and single family residential. Any multifamily program would most likely be in partnership with the Housing Opportunities Commission, and a single family program would be modeled off of existing programs in Connecticut and Michigan. Mr. Kragie and Ms. Vigen developed briefings on best practices in programs that are currently available across the country.

Mr. Kragie noted that the MCGB single family program will likely look like a hybrid of the Connecticut Smart E program and the Michigan Saves HELP program. The Product Development Work Group committed to work to create a timeline and some semblance of a proposal in advance of the January BOD meeting.

Mr. Hunter observes that in Connecticut, multifamily is very challenging but very rewarding because when you do a multifamily project you're helping many different homeowners or renters cope with high energy costs. Because of drain on internal resources, a partnership is going to be the way to go (points to HOC opportunity).

On the single family side, Mr. Hunter stated that these programs take time to ramp up: many months of working with potential partners (credit unions and contractors). Mr. Hunter believes it will be important to try and find a champion lender that will work with the MCGB.

Mr. Sahadi said that the MCGB can't wait until a full-time executive director is in place, better to get a start on the products now. Mr. Sahadi also wants to be sure that MCGB is allowing projects in the multifamily space to utilize relevant Fannie Mae and other federal programs. Mr. Sahadi pointed to NYCEEC in NY is an example of an organization that is helping connect projects with these incentives.

Ms. Feldt requested that the Product Development Work Group ensure some degree of focus on the low-income community given the interest of elected officials who have made the request to focus on low-income based on feedback from their constituents. Mr. Parsons also noted support for a minimum of 20% towards affordability as a floor for the organization, but advised not to be tunnel-visioned and also think about cost-effectiveness. The merger settlement agreement also requires a good faith effort to use 20% of funds towards affordability, and MCGB will also adopt that informal standard. Mr. Sahadi stated that the MCGB needs to develop its own definition of affordability.

By recommendation of the Product Development Work Group, A MOTION TO DIRECT staff to conduct further market research and assembling detailed product and program proposals for energy efficiency and clean energy deployment in the multi-family and single-family residential market and present initial thoughts to the Board at the January 26th meeting. Mr. Parsons makes a motion to approve, Ms. Feldt seconded. The resolution passes unanimously.

Ms. Norman added that based on this discussion, it would be beneficial to include a discussion on evaluation, measuring, and exploring what success means for the MCGB in the January planning session, Staff made note for the January session.

Recruitment WG

The Recruitment work group met twice since the last Board meeting. Work group lead Ms. Feldt summarized that they had updated and were recommending a position description for the Executive Director/President/CEO position, and had also discussed and were recommending a general hiring process outlined in the meeting materials. Ms. Feldt noted that the process and timing would be flexible and acknowledged that the actual hiring process would need to align with the arrival of funding, and Mr. Parsons advised that the funding situation not be included in the actual public position description. Mr. Hunter asked how soon and how it would be advertised. Ms. Vigen provided that an outreach plan would be sent to the Recruitment work group and Board Leadership and could go out as early as Friday or early the following week. Mr. Hunter also offered to connect Ms. Vigen with the Connecticut Green Bank Human Resources staff. The Board passed a resolution approving both the position description and hiring process, with acknowledgement that the actual hiring process would need to align with the arrival of funding.

By recommendation of the Recruitment Work Group, A MOTION TO APPROVE the Executive Director Position Description and Recruitment Process substantiated in the form tabled at the November 29, 2016 meeting to be initiated promptly by staff, with hiring being contingent upon funding. Ms. Swann made the motion and Ms. Brown seconded. The motion passed unanimously.

Fundraising and Finance WG

Fundraising and Finance Work Group lead Ms. Norman noted that Womble and Carlyle reviewed and revised a proposed forgivable loan agreement between the MCGB and HOC, but it will not be approved today. The new draft is currently under review by HOC. The background on the loan agreement is that HOC is willing to provide an interest free loan to allow for operations of the MCGB to occur in advance of the arrival of merger funds. There was general discussion about process of approval of the note, and an amended resolution was proposed as reads below. Staff notes that they will provide a deadline for any comments when the final agreement is circulated for any final comments prior to execution.

By recommendation of the Leadership of the Board of Directors, A MOTION TO AUTHORIZE THE BOARD LEADERSHIP TO FINALIZE, COUNTERSIGN, AND EXECUTE a forgivable loan agreement for the amount of \$25,000 from Housing Opportunities Commission to support general startup and operating needs with the understanding that prior to execution, the Board of Directors leadership will circulate the execution form of note to the entire Board of Directors for any comment.

Mr. Espinosa made a motion, Ms. Brown seconded. Motion passed without opposition, with one abstention (Mr. Marks).

Ms. Norman noted that she, Ms. Vigen and Mr. Kragie will be taking part in a meeting December 12 with Stewart Clarke, Executive Director of the Town Creek Foundation. Ms. Vigen noted that a formal letter of introduction providing general information about who the MCGB is, what the county needs, who the leadership is and how the money would be used has been prepared. The initial grant ask is for \$260,000 for 15 months, including 12 months of salary for the Executive Director and operational expenses for the first 6 months. Mr. Parsons raised the question on whether Town Creek is expecting a proposal for funding an executive director. Staff was unsure, but will develop a back-up proposal in the event that Town Creek is not interested in funding a position, and will also make clarifying changes around timing in the budget detail in the board materials.

By recommendation of the Finance and Fundraising Work Group, A MOTION TO APPROVE the Introductory Inquiry Letter and Budget Detail to the Town Creek Foundation, to be sent ahead of a scheduled December 12 meeting.

Ms. Swann makes a motion to approve, Ms. Norman seconds. Motion is approved unanimously.

Ms. Norman also added that the Work Group is exploring other funding options: they received a document briefing on the opportunities and requirements for CDFI status, have pension funds on their radar, will be picking up the conversation on HOC Bonding, and will continue to explore other donor funding.

Next, the work group presented an outline of communications needs and estimated budget numbers. Mr. Kragie said the next steps will be to further develop the current scope of work for website development work and talk to potential consultants and contractors who can perform this work. Ms. Swann asked if this outline could be converted into a procurement document. Ms. Vigen noted, yes, and that a template from DEP has already been obtained for such a procurement. Mr. Parsons urged the board to confer with the Chamber of Commerce to see if they have contractors who could help, as MCGB should focus on local business. Staff were also encouraged to explore anyone who might provide some level of in-kind service, and how that could be part of any procurement. DEP also has a Green Business Certification program which may or may not have a participating communications firm.

After the communications and marketing discussion, staff presented an initial set of financial statements for the MCGB. Mr. Kragie also noted that he and Mr. Marconi were working on a set of options to manage the financial records of the MCGB, and will be presenting a set of options along with a recommendation to the Fundraising and Finance Work Group in the next couple of weeks.

Naming WG

Work group lead Ms. Swann presented on the Naming work group's activities since the October BOD meeting. The Naming work group convened twice, and has made the decision to attempt to retain the name "Montgomery County Green Bank" by engaging the Maryland Department of Labor, Licensing, and Regulation (DLLR) with the assistance of Womble Carlyle. This decision was approved by the Board through the resolution cited below. The process is expected to take between 4-6 weeks from the date of submission of a letter to DLLR. In the meantime, the 1023 will go forward with the name Montgomery County Green Bank, as it is simple to change the name either during or after the Form 1023 process if need be. Mr. Parsons asked if there was any reason not to

pursue formal review – Ms. Swann noted that pursuing review may allow them to avoid having to go through a name change. The alternative is to simply go through a name change.

By recommendation of the Naming Work Group, A MOTION TO REQUEST with assistance from legal counsel, formal review by MD Department of Labor, Licensing, and Regulation for use of the term “bank” in the organization’s name, Montgomery County Green Bank.

Ms. Norman makes a motion to approve the resolution. Ms. Feldt seconds the motion. The motion is approved unanimously.

Governance WG

Ms. Brown, as lead of the Governance work group, led the Governance work group discussion. Ms. Brown reviewed the changes to the Conflict of Interest document with the Board noting that the changes primarily related to the clarification of the role of the board and committees. Based on staff recommendation, the work group was recommending not quantifying what level of investment triggers a conflict of interest. Mr. Parsons raised the issue of holdings contained within a mutual fund, as not everyone is aware of what is in their mutual fund. The general consensus of the board was that additional thought needed to be put into the definition of a conflict of interest. Ms. Feldt noted that the County has an exception for mutual fund investments.

Clarification around the use of the terminology, “material” and “substantial” is needed, perhaps adding a definitions section. Also, in Section 2.3, staff were requested to make the reference to section 3.2 consistent with the format of the document. The Governance WG’s recommendation was tabled, and the document was sent back to the work group for review, with the instruction to consult the county’s language on conflict of interest as guidance.

After the Conflict of Interest discussion, Mr. Kragie led the group through a high-level review of the MCGB’s Form 1023 submission. The application requires the applicant to list all the potential ways it may fundraise, and the Governance WG has determined a broad scope to keep all options open, including international contributions. Ms. Feldt asked staff if this was allowed under legislation. Ms. Vigen noted that the legislation includes a catch-all to allow for any other funding sources.

In Section 8, Mr. Kragie noted that the MCGB was advised by Womble to describe the MCGB as not affiliated with a government organization. He also said that the MCGB has been advised by pro bono counsel that it will not be making any substantial attempts to influence legislation in the near term, and we should check no in that box.

While not affiliated, the MCGB does list that it has a close connection with Montgomery County government since the MCGB is designated by the County but is actually not an instrumentality of the County. The MCGB does list the County as a “close connection” but this helps the organization define our relationship while conveying our full autonomy.

Part 9 of the 1023 asks the MCGB to list a projected budget for the next few years. The budget that was given is based on some of the MCGB’s budget exercises thus far, and can and should be updated with each subsequent annual 990 filing.

Part 10 is the MCGB's Public Charity Status. The MCGB is listing itself as a Public Charity versus a foundation since it receive a substantial part of our financial support via contributions from publicly supported organizations, a government unit, or the general public. This is Womble's strong recommendation; it can be revisited if we qualify for another type of status. Of note, the IRS has changed its rules, no longer requiring the MCGB to ask for a definitive ruling, so the MCGB can submit the 1023 application at any time.

Mr. Kragie noted that Part 11 confirms the MCGB's user fee of \$850, and Bert Hunter as Chair of the BOD will sign.

By recommendation of the Governance Work Group and Leadership of the Board of Directors, A MOTION TO APPROVE, EXECUTE, AND SUBMIT IRS Form 1023 Application for Tax-Exempt Status to the IRS for their review, consideration, and decision.

Mr. Parsons made a motion to approve the resolution. Ms. Swann seconded the motion. The motion passed unanimously.

7. Additional Items

The BOD had a brief discussion about the potential for engaging with HOC on bonding capacity issues. It was determined that the conversation should be held off for future BOD sessions, and would be addressed by staff in the meantime.

8. Adjournment

Mr. Espinosa made a motion to adjourn. Mr. Parsons seconded. Meeting adjourned at 5:04 pm.

The next Green Bank Board of Directors meetings are scheduled for:

- **Thursday, January 26, 2017 from 9:00-12:30 and 1:30-5:00pm*** - Montgomery County Chamber of Commerce
- **Wednesday, February 22, 2017 from 1:30-5:00pm-** Montgomery County Chamber of Commerce
- **Wednesday, April 5, 2017 from 1:30-5:00pm-** Montgomery County Chamber of Commerce
- **Wednesday, May 10, 2017 from 1:30-5:00pm-** Montgomery County Chamber of Commerce
- **Wednesday, June 14, 2017 from 1:30-5:00pm-** Montgomery County Chamber of Commerce

**The morning portion will be a planning session for the whole BOD*

For inquiries about the Green Bank Board of Directors, to access meeting materials, or for information about attending a meeting, please contact Michelle Vigen, michelle.vigen@montgomerycountymd.gov.