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House Panel Boosts Prospects for Final Action This Year on Long-Term Transportation Renewal Law

House Action Slated for Early November

by Kevin McCarty

A key House transportation committee recently gave its unanimous approval to a long-term surface transportation renewal plan, boosting prospects for final Congressional action on a new law by year's end.

In his statement, House Transportation and Infrastructure Committee Chairman Bill Shuster (PA) said, "The Committee's overwhelming approval of the STRR Act today is a positive step forward for our Nation's transportation system and our economy."

The legislation, called the *Surface Transportation Reauthorization and Reform Act of 2015* (H.R. 3763), was the result of bipartisan negotiations, a measure that authorizes about \$261 billion for highways, \$55 billion for transit systems and about \$9 billion for safety

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From left, USCM Vice President Oklahoma City Mayor Mick Cornett, Des Moines Mayor Frank Cownie, and Normal Mayor Chris Koos talk with House Transportation and Infrastructure Committee Chairman Bill Shuster (PA) earlier this year on the need for a long-term surface transportation reauthorization.

Win: Senate Rejects Sanctuary Cities Bill

by Laura DeKoven Waxman

In a victory for cities, the Senate voted October 20 not to proceed with consideration of S. 2146, the Stop Sanctuary Policies and Protect Americans Act on a vote of 54-45.

The U.S. Conference of Mayors strongly opposed the bill and on October 14 Conference CEO and Executive Director Tom Cochran wrote to all senators on behalf of the nation's mayors urging them to vote no on cloture and to oppose the bill if the Senate moved forward with debate on it. Many mayors individually reached out to their senators as well to register their opposition to the bill and urge them to vote against it.

S. 2146, which was sponsored by Senator David Vitter (LA), would have denied Community Development Block Grant, COPS, and

State Criminal Alien Assistance funding to jurisdictions meeting the bill's broad definition of a sanctuary city. It could have affected such funding to 300 or more jurisdictions across the nation.

The bill also would have preempted local decisions governing how law enforcement agencies prioritize their resources, direct their workforce, and define the duties of their employees. Further, it would have shifted federal responsibility for enforcing civil immigration law to local governments, diverted critical resources from local law enforcement agencies, compromised public safety, and hindered local police department efforts to work with immigrant communities in preventing and solving crimes.

Finally S. 2146 would have established a new

five-year, mandatory minimum sentence for illegal reentry by individuals with a prior "aggravated felony" conviction or at least two prior illegal reentry convictions. It also would have raised the maximum sentence for illegal reentry across the board.

In a Statement of Administration Policy released October 20, the Office of Management and Budget said that the Administration strongly opposed S. 2146 because it "fails to offer comprehensive reforms needed to fix the Nation's broken immigration laws and undermines current Administration efforts to remove the most dangerous convicted criminals and to work collaboratively with State and local law enforcement agencies." OMB said that if the bill were presented to the President, his senior advisors would recommend he veto it.



Conference President Stephanie Rawlings-Blake has announced new task forces to activate mayors for policy recommendations to our membership.

Task Force on Substance Abuse, Prevention and Recovery Services

Mayor Rawlings-Blake has appointed Boston Mayor Marty Walsh to head up our Task Force on Substance Abuse, Prevention and Recovery Services. This group will work to bring practices from Boston and other cities forward so we can work together against the rapid increase of abuse across the nation.

Recently, Crystal Swann and I met with White House Director of Intergovernmental Affairs Mayor Jerry Abramson at his request, along with NLC Executive Director Clarence Anthony and NACo Executive Director Matt Chase. The counties are having a terrible time of it. Their jails are crowded and they continue to argue that addicted prisoners should receive Medicaid payments. We agree.

We look forward to working with Mayor Walsh in the coming months, before our Winter Meeting, to have a more thorough agenda. Our organization can help mayors with citizens coping with substance abuse in cities from all regions in the nation. We are forming this Task Force now. If you are interested in serving, contact Assistant Executive Director Crystal Swann at cswann@usmayors.org.

Task Force on Aging

President Rawlings-Blake has appointed Pembroke Pines Mayor Frank Ortis to serve as Chair of our new Task Force on Aging. This is a broad issue since so many are living longer and living in our cities. Their needs and requests for services are sometimes unique and evermore increasing. Mayor

Ortis brings enthusiasm and action to our new Task Force. In Baltimore, at our leadership meeting earlier this month, Mayor Ortis's call to all mayors to join with him was received with a most positive response.

We will be having a first Task Force Meeting via phone before our Winter Meeting in January to formulate recommendations and best practices. This is a broad Task Force and we encourage all to join with us. If you want to serve and be part of our aging initiatives as we go forward, please contact Assistant Executive Director Crystal Swann at cswann@usmayors.org.

Mayors and Police Chiefs Task Force

Conference President Rawlings-Blake has appointed Seattle Mayor Ed Murray to chair our Mayors and Police Chiefs Task Force. Today, there is a myriad of issues in 2015 that confront mayors, police chiefs, and their police departments.

Since Ferguson, The Conference of Mayors has been at the forefront as the nation and national and social media focus on our police departments. Today, we have old issues and new issues that will both require new approaches.

Earlier this year, Laura Waxman and I had discussions with Mayor Murray's team and we plan a comprehensive approach to the needs and challenges of police departments as so many face danger each day protecting our homes, streets, and neighborhoods.

As Mayor Murray leads our Task Force to develop a new agenda for our mayors, we must recognize that for the past year—since Ferguson—policing is facing abject scrutiny and is causing turmoil and controversy in our police community.

This week, meeting in Chicago, The International Association of Chiefs of Police (IACP) representatives stood before the TV cameras and called for universal background checks for firearms. The assembled chiefs acknowledged the gun lobby and Congress not acting. The chiefs assert that they are not against guns but are in favor of keeping guns and



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rifles out of the hands of criminals.

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COCHRAN

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The U.S. Conference of Mayors has been raising this issue since 1968 when Dr. Martin Luther King and Senator Robert F. Kennedy were killed in the same year. Our policing in the 1990s also centered on keeping guns out of the hands of children and people suffering from mental illness.

FBI Director James Comey this week followed Chicago Mayor Rahm Emanuel's recent statement that some of our police have become "fetal" since Ferguson. The "Ferguson effect," according to Director Comey, has caused police across the nation to have a hesitancy to aggressively enforce the law in the post-Ferguson era of social media full of smart phones and YouTube.

The White House Press Secretary this week countered by saying that no evidence shows that police officers are shirking their responsibilities. This was after Director Comey made a similar speech concerning post-Ferguson police behavior at the University of Chicago last week.

Director Comey continued this week before the IACP, stating that we are living in an "age of viral videos" and social media has today altered policing in our nation.

FBI Director Comey is quite targeted in his remarks to the police officers by saying that violent crime is hitting many major U.S. cities, and he is inferring that police are to blame because they are reluctant to act due to the possibility that they will be caught on a video alleging police brutality.

Certainly FBI Director Comey's remarks are drawing some fire and controversy, but at least we are finally discussing this with the national conversation that mayors have supported.

Earlier this month, Attorney General Loretta Lynch hosted a meeting with mayors, police chiefs and U.S. attorneys.

We had asked for a meeting with the Attorney General to discuss the higher than normal spikes of murder in many cities. The meeting was a beginning and we will have another meeting with the Attorney General scheduled. The fact is we are experiencing a turbulence

in the policing world that we have had before, when we helped form PERF many years ago, when Pat Murphy, the father of community policing, worked alongside us to provide opportunities for our police chiefs to be more professional. Today we have some of the best professionals in America, our police chiefs,

heading up our departments.

Today, we are in a new era, of how we "talk", how we "walk" and how we lead, because as mayors, contrary to your counterparts in other

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USCM CALENDAR

— 2015 —

Wednesday, November 18 - Thursday, November 19

The Vacants to Value Summit & Expo

Baltimore, MD

Contact: Wendi Redfern wendi.redfern@baltimorecity.gov / 410-396-4664

Registration Open

— 2016 —

Wednesday, January 20 - Friday, January 22

USCM 84th Winter Meeting

Washington, DC

Contact: Carol Edwards cedwards@usmayors.org / 202-293-7330

Sponsorship: Geri Powell gpowell@usmayors.org / 202-861-6774

Register Now at usmayors.org/84thWinterMeeting/

Wednesday, January 20 - Thursday, January 21

USCM Workforce Development Council (WDC) Board/Winter Meeting

Washington, DC

Contact: Ida Mukendi imukendi@usmayors.org / 202-861-6724

Register Now at usmayors.org/84thWinterMeeting/

Friday, June 24 - Monday, June 27

USCM 84th Annual Conference of Mayors

Indianapolis, IN

Contact: Carol Edwards cedwards@usmayors.org / 202-293-7330

Sponsorship: Geri Powell gpowell@usmayors.org / 202-861-6774

Registration Opens Spring 2016

Friday, June 24 - Saturday, June 25

USCM Workforce Development Council (WDC) Board/Annual Conference

Indianapolis, IN

Contact: Ida Mukendi imukendi@usmayors.org / 202-861-6724

Registration Opens Spring 2016

Mayors Tackle Drought, Green Infrastructure, Water Investment and Affordability

by Rich Anderson

Indianapolis Mayor Greg Ballard chaired a meeting of the Mayors Water Council on October 15-16, 2015 in Los Angeles, CA. Cities in the region have been pressured by a four year drought that has prompted major water conservation efforts. California cities have responded to the drought, and they have served up a larger vision of public water resources management that plans for the future.

Water Resources Planning

Ted Bardacke, Director of Infrastructure for the City of Los Angeles, identified challenges familiar to many cities: drought, population growth, aging infrastructure, limited financial resources, dependence on imported water and climate change. Bardacke stated that "...88% of LA's water supply is impacted by climate change, environmental and legal issues." The Los Angeles "Solution", according to Bardacke, is to manage water resources under the "one-water" approach, to manage drinking water, wastewater and stormwater as a resource to reuse, recycle and recharge groundwater. The city's goals are to reduce water consumption by 20% measured in gallons per capita per day (GPCD) and to reduce purchased (imported) water by 50% by 2024.

Mayor Patrick Furey, City of Torrance, commented that the city, (population 148,000) provides 24 million gallons a day of supplies, 25% of which is recycled water. Furey said that 80% of the water supply is local, and 20% is imported via the California Water Service. Torrance was one of the first cities to enact a local ordinance for conservation, and over the last 25 years have achieved a 34% reduction in consumption (overall). Since the state mandate to reduce consumption by 25%, Torrance has achieved another 24% reduction in use. Despite growth in population overall water consumption has declined.

Mayor Deborah Robertson, City of Rialto outlined measures Rialto is taking to manage water resources, including: adopting a water conservation ordinance, establishing a consumer education program, reducing city water use and in-



Congresswoman Grace Napolitano (CA), Ranking Member of the House Transportation and Infrastructure subcommittee on Water and the Environment, at left, speaks with Indianapolis Mayor Greg Ballard and Signal Hill Mayor Larry Forester during the Los Angeles Water Council Meeting.

creasing water reuse. Rialto has adopted water consumption restrictions on outdoor irrigation; persuaded industrial users to use grey rather than potable water.

Joseph Sullivan, a Partner in the law firm Hawkins Delafield & Wood commented that there is much new activity in California cities involving financing water supply contracts. He said that cities can integrate private sector financing into public water supply projects, but they should be careful about how they structure this approach to ensure success. The public benefits are that alternative project delivery has the potential to reduce costs as well as lead time to achieve delivered water.

Greenscaping – An Important Component of Green Infrastructure

John Kemmerer, Associate Water Director for EPA Region 9, presented information on Green Infrastructure (GI) best practices in the Los Angeles County Basin. The Garvanza Park project involves capturing stormwater and reusing it in community parks. The Hermosa Beach Pier Project involved construction of an infiltration trench strategically located to stem ocean runoff.

Lake Barrington Mayor Kevin Richardson addressed the need for cities to lead by example and adopt measures that promote greenscap-

ing – a practice whereby public and private property owners can achieve public benefits in water quality, land use and the public health benefits of open space. Richardson outlined a broad and flexible definition of greenscaping as measures designed to achieve greater soil stability to mitigate sedimentation and nutrient loadings into water bodies; and optimal in-place permeability to mitigate flooding and promote groundwater recharge.

Michael Shelton, Manager, Corporate Social Responsibility for Scotts Miracle-Gro Company talked about how Scotts residential lawn and garden sales has helped rather than hurt water quality and soil stability. He emphasized the benefits of maintaining residential greenspaces. For example, in the Great Lakes region fresh water supplies are particularly vulnerable to algal blooms from phosphorus nutrients in runoff. Scotts has removed phosphorus from its lawn care products. Shelton stated that non-farm fertilizers comprise only 6% of all applied fertilizers in the US. Shelton quoted a Chesapeake Bay/ EPA statement – "...Chesapeake Bay Program found that a "dense vegetative cover of turf grass" on a lawn actually reduces pollution and nutrients in waterways". He also quoted a Florida study that concluded – "...Moderate feeding promotes healthy grass that will naturally

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filter out impurities, protecting our waterways more efficiently than lawns that are deprived of nutrition”.

Racine Mayor John Dickert remarked that the Great Lakes water supply, perhaps the largest fresh water supply on the planet, needs to be protected because it serves as the supply for a large region. Cities in the region are concerned about algal blooms and their potential health impacts akin to the Toledo health emergency last year.

The Status and Challenges of Public Water Investment

Turlock Mayor Gary Soiseth provided an example of continued public water investment that addresses future water supply. Turlock is a partner in the North Valley Regional Recycled Water Program. The program makes recycled water available for agricultural irrigation and potential wildlife refuges. It allows cities to eliminate discharge to the San Joaquin River, while providing long-term, reliable water supplies to mitigate on-going and severe contractual water supply shortages. It also reduces reliance on Delta conveyance and ground-water pumping to meet unmet water supply needs. Estimated project costs are \$98 million.

David Gadis, Executive Vice President of Veolia Water, talked about ways to lessen the cost of public water and sewer services while guaranteeing regulatory compliance and service delivery volumes. Gadis outlined several modes of P3 available to cities, and that have been demonstrated to deliver contract benefits. He matched up local needs with various alternative project delivery models. For example, the traditional P3 model is called contract operations service agreements that transfer compliance responsibility to the private operator. Peer Performance solutions involve insertion of private expertise to improve current water and sewer systems. The Delegated Management solution brings private sector expertise into actual plant management with current city workforce. The Concession-Lease model brings private financing into the picture, and this helps cities who are in cash crunch situations.

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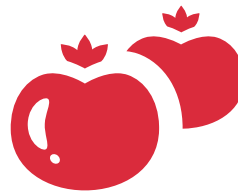


The Honorable Grace Napolitano, Representative from California and Ranking Member of the Water Resources and the Environment Subcommittee of the Transportation and Infrastructure Committee Gives the Keynote Address at Mayors Water Council Meeting in Los Angeles

Congresswoman Grace Napolitano was the keynote speaker at the Mayors Water Council Meeting Friday October 16, 2015 in Los Angeles. She began her remarks focusing on California drought- the one that happened last time, 25 years ago. Her message then, as it is now, is if Luck is Plan A, what's Plan B when Nature's wrath throws a curve ball at Plan A? Noting that water and sewer services are facing affordability issues, she said that there are some things that cities and their residents should invest in now because the cost to respond after a natural disaster could be much more expensive.

The Congresswoman has an impressive array of water-based legislative experience. Stating that old laws need to be rewritten, she has authored and co-authored policies that would: invigorate investment in water technology; address dam and levy concerns; and, help communities get federal aid to address drought preparedness and resiliency. While such legislation is stalled in Congress, she said that cities should use the time to educate Members of Congress that water affordability is an issue critical to our citizens and our economy and that unfunded mandates are posing a challenge. She encouraged cities to bring together local, county and state officials and the local environmental groups to ferret out facts and communicate better on the issue. She advised the mayors to develop a media program to "... tell people they have to pay more- this is a mandate we must comply with." She followed up by saying part of the information communicated should be the question of why the EPA is pushing mandates that people can't afford.

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The United States Conference of Mayors and
The Scotts Miracle-Gro Company's GRO1000
Gardens and Green Spaces Program
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and greenscapes across the nation.

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Application Guidelines – usmayors.org/gro1000

Application Deadline – November 23, 2015

Inquires – cswann@usmayors.org

Support Grows for Justice Reform

Bipartisan Bills Introduced in Senate, House

by Laura DeKoven Waxman

Several recent events suggest there is broad-based, bipartisan support for limited sentencing and justice reform and that action on it could occur during this Congress.

Senate Bill

The Senate Judiciary Committee October 22 reported out legislation to reform federal sentencing of certain drug offenders, target violent criminals, and grant judges greater discretion in sentencing for lower-level drug crimes. S. 2123, the Sentencing Reform and Corrections Act of 2015, also is intended to reduce recidivism by helping prisoners successfully re-enter society and would establish two new mandatory minimum penalties for particularly heinous crimes.

S. 2123 was introduced on October 1 and currently has 18 co-sponsors (nine Democrats and nine Republicans): Senators Chuck Grassley (IA), Dick Durbin (IL), John Cornyn (TX), Sheldon Whitehouse (RI), Mike Lee (UT), Charles Schumer (NY), Lindsey Graham (SC), Patrick Leahy (VT), Cory Booker (NJ), Tim Scott (SC), Thom Tillis (NC), and Chris Coons (DE), Jerry Moran (KS), Richard Blumenthal (CT), Jeff Flake (AZ), Al Franken (MN), Dianne Feinstein (CA), Amy Klobuchar (MN), and Rob Portman (OH).

Among the bill's provisions, it would:

- Reform and target enhanced mandatory minimums for prior drug felons: The bill would reduce the enhanced penalties that apply to repeat drug offenders and eliminate the three-strike mandatory life provision, but would allow those enhanced penalties to be applied to offenders with prior convictions for serious violent and serious drug felonies.
- Broaden the existing safety valve and create a second safety valve: The bill would expand the existing safety valve to offenders with more extensive criminal histories but exclude defendants with prior felonies and violent or drug

trafficking offenses unless a court finds those prior offenses substantially overstate the defendant's criminal history and danger of recidivism. The bill also would create a second safety valve that would give judges discretion to sentence certain low-level offenders below the 10-year mandatory minimum. Defendants convicted of serious violent and serious drug felonies would not benefit from these reforms, however.

- Reform enhanced mandatory minimums and sentences for firearm offenses: The bill would expand the reach of the enhanced mandatory minimum for violent firearm offenders to those with prior federal or state firearm offenses but reduce that mandatory minimum to provide courts with greater flexibility in sentencing. The bill also would raise the statutory maximum for unlawful possession of firearms but lower the enhanced mandatory minimum for repeat offenders.
- Create new mandatory minimums for interstate domestic violence and certain export control violations: The bill would add new mandatory minimum sentences for certain crimes involving interstate domestic violence and create a new mandatory minimum for providing weapons and other defense materials to prohibited countries and terrorists.
- Apply retroactively the Fair Sentencing Act and certain other sentencing reforms: The Fair Sentencing Act of 2010 reduced the disparity in sentencing between crack and powder cocaine. The bill would ensure the retroactive application to offenders sentenced under those provisions before they were modified.
- Provide for prison reform based on the Cornyn-Whitehouse CORRECTIONS Act: The bill would require the Department of Justice to conduct risk assessments to classify all federal inmates and

to use the results to assign inmates to appropriate recidivism reduction programs, including work and education programs, drug rehabilitation, job training, and faith-based programs. Eligible prisoners who successfully complete these programs can earn early release and may spend the final portion (up to 25 percent) of their remaining sentence in home confinement or a halfway house.

- Limit solitary confinement for juveniles in federal custody and improve the accuracy of federal criminal records.
- Provide for a report and inventory of all federal criminal offenses.

House Bill

On the House side, Representatives Bob Goodlatte (VA) and John Conyers (MI), the Chair and Ranking Member of the House Judiciary Committee, on October 8 introduced a bill that mirrors the federal sentencing provisions in the Senate bill. That bill, H.R.3713, the Sentencing Reform Act of 2015, has 21 co-sponsors nearly equally split between Republicans and Democrats. Chairman Goodlatte has indicated the Committee will be working on additional bills that will deal with other aspects of federal criminal justice reform.

Law Enforcement Leaders to Reduce Crime and Incarceration

At a Washington, DC press conference October 22, a group of top police chiefs and prosecutors announced the establishment of Law Enforcement Leaders to Reduce Crime and Incarceration. Co-chaired by Chicago Police Superintendent Garry McCarthy and former New Orleans and Nashville Police Chief Ronal Serpas, the organization brings together more than 130 current and former police chiefs, federal and state chief pros-

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ectors, and attorneys general from all 50 states to urge for a reduction in both crime and incarceration. Following is the group's mission statement:

As current and former leaders of the law enforcement community – police chiefs, sheriffs, district and state's attorneys, U.S. Attorneys, attorneys general and other leaders – protecting public safety is a vital goal. From experience and through data-driven and innovative practices, we know the country can reduce crime while also reducing unnecessary arrests, prosecutions, and incarceration. We can also reduce recidivism and strengthen relationships with communities. With the goal of building a smarter, stronger, and fairer criminal justice system, we are joining together to urge a change in laws and practices to reduce incarceration while continuing to keep our communities safe.

Within the overarching goal of reducing incarceration while reducing crime, the group will advocate for four specific changes:

- Increasing alternatives to arrest and prosecution, especially mental health and drug treatment;
- Restoring balance to criminal laws;
- Reforming mandatory minimums; and
- Strengthening community-law enforcement ties.

Additional information is at <http://lawenforcementleaders.org/>.

White House Support

The Obama Administration is making passage of bipartisan justice reform legislation

a priority. In his October 17 radio address President Barack Obama highlighted the need for justice reform and promised to work with Congress "to pass meaningful criminal justice reform that makes the system cost-effective, fairer, and smarter, while enhancing the ability of law enforcement to keep our communities safe."

On October 22 the White House brought together more than 50 law enforcement leaders, many of whom had participated in the Law Enforcement Leaders press conference earlier in the day, with top officials from the Justice Department, national law enforcement organizations, state and local government organizations and others for a panel discussion with President Obama on the need to reform America's criminal justice system, and how to invest in our communities and expand opportunity for all Americans. U.S. Attorney General Loretta Lynch highlighted how seriously the Administration is taking the issue of justice reform in her remarks before the panel discussion. Participating on the panel with the President were Los Angeles Police Chief Charlie Beck, and U.S. Attorney for the District of Colorado John Walsh; editor-in-chief of the Marshall Project Bill Keller.

In his remarks during the panel discussion, the President said that he thinks this is "a unique moment in which, on a bipartisan basis, across the political spectrum, people are asking hard questions about our criminal justice system and how can we make it both smart, effective, just, fair."

He identified five principles that are guiding his Administration's efforts:

Fairness: The criminal justice system should

treat people fairly regardless of race, wealth, station; that there has to be a consistency in the application of the law.

Proportionality: The punishment should fit the crime.

Comprehensive approach: Incarceration is just one tool to reduce crime and violence and make communities safe. Also needed to create safer communities are drug diversion and treatment, more effective re-entry programs, and getting to young people earlier so that they don't get in trouble in the first place.

Effective spending: "We know we're spending \$80 billion a year incarcerating folks," the President commented. "If, in fact, we had smarter sentencing, we thought about how we're dealing with drug offenses more intelligently, we are working on evidence-based approaches to rehabilitation and reducing recidivism, and that leads us to save money that then, in turn, we can put on the streets to have a greater police presence, to cultivate better community-police relations, to focus prosecutors' attention or police officers' attention on the truly dangerous criminals, then aren't we better off and isn't that what we should be pursuing," he asked.

Prevention: "We cannot put the entire onus of the problem on law enforcement," the President said. "I think there's been a healthy debate around police-community relations and some of the episodes that we've seen around the country, but we, as a society, if we are not investing in opportunity for poor kids, and then we expect just the police and prosecutors to keep them out of sight and out of mind, that's a failed strategy," he continued.

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programs, totaling \$325 billion over six years.

In his opening remarks, Ranking Member Peter DeFazio (OR) said, "The critical thing is that it is a six-year bill, and that does give predictability. Obviously, I want higher funding levels, and that will continue to be a work in progress."

"I look forward to House action on the bill and going to conference with the Senate as soon as possible," said Shuster after his committee's October 22 vote.

House tax leaders are now finalizing the revenue provisions to accompany H.R. 3763, with planned action by the full House of Representatives expected during the first week of November.

The U.S. Senate in late July overwhelmingly approved its six-year renewal plan, called *Developing a Reliable and Innovative Vision for the Economy Act* (H.R. 22), which is similar in many respects to the House committee-approved bill.

In a related development, Congress voted to extend the MAP-21 law through November 20, providing Senate and House transportation leaders with time for conference committee negotiations, with a goal of reaching an agreement on a long-term renewal bill before the new extension expires. This extension law, when signed by the President, will also extend the December 31 deadline applicable to Amtrak, commuter railroads and freight railroads for complying with positive train control (PTC) requirements.

Despite being challenged by constrained revenue commitments, specifically limited to current spending levels (adjusted for inflation), House committee leaders, led by Shuster and DeFazio, made some important adjustments in their legislation to be more responsive to metropolitan/local area transportation priorities.

More Local Control of STP Funds

Among these changes are provisions ensuring that more Surface Transportation Pro-

gram (STP) funds will be allocated to metro and other local areas, reversing Senate provisions that are expected to result in a six percent cut in STP funding to local areas in the first year of that bill.

During the markup, a number of panel members spoke about the need to do more to increase STP funding to local transportation decision-makers, recognizing committee leaders for their efforts to increase STP funding to local areas.

Rep. Rodney Davis (IL) offered and withdrew an amendment proposing to raise the STP local share further, and to make other adjustments in how areas under 200,000 are treated by states under the law, pledging to work with Shuster to see how additional adjustments on STP funding could be made as the bill moves forward. In his comments, Davis said his top priority in serving on the committee was to "increase local control of transportation dollars apportioned to the states." Thanking Shuster for his efforts, he then said, "I believe we must do more to make sure local governments and MPOs are actually having their priorities addressed." Rep. Dina Titus (NV) amplified the message about why it is important to get more resources to the local level, stating, "Too often state departments of transportation use bad politics instead of good policy when making the allocation of dollars."

The bill makes all local and state bridges on the Federal-Aid-System eligible for the \$21+ billion in annual funding under the National Highway Performance Program, not just the smaller subset of bridges now on the National Highway System. This corrects for an enormous gap in funding for these important bridges that occurred when Congress eliminated the stand-alone Bridge Program in the 2012 MAP-21 law. The House bill also continues the set-aside for Off-System bridges, as was provided under the earlier MAP-21 law.

H.R. 3763 does maintain the basic program structure of current law, including the historic funding split between highway and transit programs. In a key adjustment, the Federal Transit Administration's bus discretionary program was restored. Eliminated in MAP-21, the committee-passed bill reinstates

this program, making \$90 million available initially and \$200 million annually in years 2-6. These funds are to be awarded competitively to transit providers seeking to improve bus fleets.

The bill also includes a new freight program, allowing metro/local areas to compete alongside states for a share of discretionary grant funding (i.e., 50 percent federal/50 percent local and/or state) for freight projects of \$100 million or more. Program funding in the later years of the bill is set at \$750 million annually.

Longstanding Funding Flexibility Reversed

For many years, the hallmark of the nation's surface transportation law has been its funding flexibility features, allowing local and state officials to shift highway funds to transit projects and transit funds to highway purposes.

Included in the House committee bill are new limitations on the "flexible" use of STP funds and Congestion Mitigation and Air Quality Program (CMAQ) funds. The bill prohibits the use of STP and CMAQ funds to fulfill any part of the local and state matching requirements for federally-assisted fixed guideway projects (e.g., new rail starts) or State of Good Repair projects (e.g., rail line rehabilitation).

During floor action on H.R. 3763, House Members are expected to consider and vote on a manager's amendment addressing a number of policy and technical issues as well as specific floor amendments, to be made in order by the House Rules Committee.

Like the Senate bill, the final House bill is expected to provide only enough new revenues to "pay for" years 1-3, leaving a funding gap in years 4-6 to future legislation and probably the next Congress. The House bill also includes a "trigger" that would authorize spending in the final three years of the law once new revenues are added to the Transportation Trust Fund.



President Rawlings-Blake Unveils Mobile Energy Education Center

by Debra DeHaney-Howard

In celebration of Energy Awareness Month, Conference President Baltimore Mayor Stephanie Rawlings-Blake unveiled October 23 Baltimore's new energy education center. The Mobile Energy Education Center (MEEC) is a part of the Baltimore Energy Initiative (BEI), a multi-agency, citywide energy effort launched by Rawlings-Blake in 2014.

The MEEC, described by Rawlings-Blake's during her remarks, is Baltimore's newest energy program created to expand the city's energy efficiency and conservation outreach efforts while reducing the city's overall energy use.

"The Mobile Energy Education Center will be used across the city as a way to engage residents and businesses in energy conservation. It's one thing to tell someone about energy conservation but it's another thing to show someone and that's what we get to do through this Center," said Rawlings-Blake. "The energy challenge uses a peer to peer community based model of engagement, meeting residents and business where they are and encouraging behavior change through education and peer learning. It will continue to advance Baltimore's efforts to preserve homeownership, promote economic development, while acting like a model for innovative building techniques that can be used across Baltimore."

As collaboration between the City of Balti-



USCM President Baltimore Mayor Stephanie Rawlings-Blake Unveils Mobile Energy Education Center known as "tiny house". City officials and Civic Works representatives joined Rawlings-Blake for the announcement outside of City Hall.

more and Civic Works, a jobs training program, the 200-square-foot mobile home (known as "tiny house") highlights a number of energy efficient materials and technologies, including a solar power, tankless water heater, cool roof, and a back-up battery to power appliances during emergencies.

"The creation of the Mobile Energy Education Center was the result of a great collaboration between the energy challenge initiative and Civic Works. The "tiny house" project acted as a hands-on construction job-training program, and Civic Works dedication to job works and job training is evident not only in helping residents get job training, but they also help to educate residents on how to save

money in their homes through energy efficiency and conservation," added Rawlings-Blake. The MEEC will highlight Baltimore's energy initiatives, while providing energy education activities and information to residents throughout neighborhoods in the city. Additionally, the MEEC will be available for community events, including festivals and community service activities that encourage residents to get ideas and enroll in the Baltimore Energy Challenge. Residents will also be able to apply for energy assistance services such as the weatherization program.

Rawlings-Blake said, "This "tiny house" is meant to go around the city and serve as a model for sustainability in the community."

COCHRAN

from page 3

nations, you are the Commanders in Chief of the local police departments of this nation.

With turmoil, turbulence, and transparency will come truth and a better understanding of how you lead your police departments to keep our cities safe.

We welcome Mayor Ed Murray as he takes over to chair our Task Force.

We welcome Gary Mayor Karen Freeman-Wilson, Chair of the USCM Standing Committee on Criminal and Social Justice. Her experience in her state and in work naturally is a great asset for us.

And, we appreciate Conference President Stephanie Rawlings-Blake for pushing the criminal justice agenda forward. The recent disturbances in Baltimore put her at ground zero of the challenges of policing all mayors face in 2015. She continues to be determined

to work with other mayors and our Justice Department to make a difference and establish new procedures and provide new opportunities to prevent the tragic riots she personally experienced along with other mayors since Ferguson over a year ago.

No doubt we will bring a strong agenda on crime and policing forward to our Winter Meeting in January. And I look forward to working with many of you as we go forward.

House Passes Reauthorization of Export-Import Bank by Wide Margin

by Dave Gatton

On October 27, the U.S. House of Representatives passed legislation, H.R. 597, to reauthorize the Export-Import Bank of the United States. The vote was 313-118. The bank's charter expired June 30, 2015. Over half of the Republican members and nearly all Democrats supported the measure. The vote was made possible by a rarely used tool called a "discharge petition," in which a majority of House members sign the petition to move a piece of legislation to the floor for a vote. Previously, the bill had been stalled in the House Financial Services Committee due to opposi-

tion by its Chairman Jeb Hensarling (R-TX). The bill was championed in the House by Rep. Stephen Fincher (R-TN) and a member of the committee.

[A summary of H.R. 597 can be found here.](#)

Earlier this year the Senate attached the Ex-Im Bank reauthorization to the adoption of the Highway reauthorization bill. The Ex-Im bank measure has substantial Senate support (probably 65 votes).

However, Senate Majority Leader Mitch Mc-

Connell (KY) does not support the measure, and is likely to have it considered only in the context of the Highway bill, when it goes to House-Senate conference committee before the end of the year.

The U.S. Conference of Mayors strongly supports reauthorization of the Ex-Im Bank which provides financial instruments to assist companies sell their U.S. products overseas. Earlier this year, the Conference sent to Congressional leaders a statement of support with over 100 mayoral signatures.

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WATER

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Public Water and Sewer Affordability Issues still Exert Local Pressure

Glendora Mayor Karen Davis presented information on stormwater mandates and how they will impact multiple communities in Los Angeles County. Known as the "EMWP", or, Enhanced Watershed Management Plan, estimates are that five communities and an unincorporated part of the county will spend \$2.1 billion to comply with, (includes capital and Operations & Maintenance costs.) The Mayor commented that Glendora, and many others in the county have relatively small budgets, and the EMWP costs will overwhelm city residents.

Signal Hill Mayor Larry Forrester said his city is 2.2 square miles with a population of 11,300, and the greatest future water cost is the water quality mandates known as the total maximum daily loadings, or TMDL. Signal Hill is situated in 2 watersheds, and each of them has a costly mandate compliance program that the city will be a part of. Absent other funding sources, the city will have to pay \$44 million in capital costs over the next 13 years. This would be a per household cost of \$804 per year – greater than the current \$769 annual cost for water, sewer, and flood control. The Mayor said "We don't know how we are going to pay for these high costs."

Ken Farfsing, Interim City Manager for Carson provided the City Manager's perspective on the impact of TMDL mandates on local water costs. The mandate costs associated with compliance in the Dominguez Channel and the San Pedro Harbor TMDLs at \$1.7 billion. Carson's share is about \$43 million. While that share may appear small, he argued that 10% of residents fall below the poverty level, per capita income is low at \$23,672, and the city has run multi-million budget deficits in seven of the last 10 years; the last fiscal year deficit was \$6.6 million out of \$78 million General Fund budget. Carson, he stated, "...is defined under California law as a Disadvantaged Community."

Lima Mayor David Berger, also Vice Chair for Water for the Conference of Mayors Environment Committee, introduced the mayors to a legislative proposal that would codify the now current discretionary EPA Integrated Planning policy. "Having the IP policy codified greatly improves a city's ability to result in a more flexible approach...one that allows for changing the consent agreement when demographic and/or economic conditions change," he stated. He requested that the mayors present consider petitioning Congress to make Integrated Planning a part of the law so that when current EPA staff that support the policy leave office the policy doesn't dissolve. He also said that codifying the policy would be of great value when the California cities have to comply with stormwater TMDLs.

House Approves Two-Year Budget Deal

by Larry Jones

On October 28 the House voted 266 to 167 to approve a bipartisan two-year budget deal that would increase spending for defense and domestic programs; and raise the debt ceiling on the federal borrowing through March 2017. The Treasury Department estimates the federal government will reach the \$18.1 trillion limit set on federal borrowing under current law on or about November 3. The budget deal will allow the Treasury Department to continue borrowing funds to meet its financial obligations through March 2017.

After weeks of negotiations, the President and Congressional leaders from both major political parties announced they had reached agreement on the budget deal on October 26. The measure calls for increasing defense and domestic (non-defense discretionary) programs by \$80 billion over the next two years. It will also raise the sequestration limits on defense and domestic spending set in the 2011 Budget Control Act.

Under current law, spending on defense is set at \$523 billion in 2016 and \$536 billion in 2017. For domestic discretionary programs, spending is set at \$493 billion in 2016 and \$503 in 2017. The Two-Year budget deal will increase spending limits by \$50 billion in 2016 and by \$30 billion in 2017. The increase would be evenly split (\$25 billion each in 2016 and \$15 billion each in 2017) between the two program areas. For defense the revised spending limit would be set at \$548 billion in 2016 and \$551 in 2017. For domestic discretionary programs spending would be set at \$518 in 2016 and \$518 in 2017.

Increased spending on defense and domestic programs would be offset by savings from structural entitlement reforms to the Social Security Disability Insurance program and Medicare; and from other savings.

Although the bill received bipartisan support, most Republicans in the House voted against it. Many felt they were left out of the negotiation process and some objected out right to raising the nation's debt limit. All Democrats voted in favor of the measure because it increases funds equally for defense and domestic programs, extends the solvency of the Social Security Disability Insurance program and prevents drastic increases in Medicare Part B Premiums and deductibles for seniors next year. In the end, 79 Republicans joined 187 Democrats in voting to approve the measure. A total of 167 Republicans voted against it.

At press time the two-year budget deal was expected to be voted on in the Senate early in the first week of November. While there is some opposition in the Senate among Republican members, the measure is expected to be approved.

ABOUT THE MAYOR

Buffalo Mayor Byron Brown and Police Commissioner Dan Derenda have unveiled an innovative program that will provide scholarship opportunities for city residents who want to pursue a career in law enforcement. Through Buffalo Police Department: 21st Century (BPD21C), up to 50 successful Buffalo residents may receive full scholarships to the Erie County-Erie Community College Central Police Services Law Enforcement Training Academy for the spring semester.

"BPD21C is a bold, creative and unique, first-of-its-kind program, that will foster an even stronger guardian mind set of our police in Buffalo," Mayor Brown commented at an October 19 press conference with a wide range of community leaders held to announce the new program. Information on the program is available from Michael L. Marcy, Mayor Brown's Director of Policy & Urban Affairs at (716) 851-5662 or mmarcy@ch.ci.buffalo.ny.us.



Buffalo Mayor Byron Brown surrounded by police and community leaders at October 19 press conference.

State and Local Legal Center Files Ohio Supreme Court Amicus Brief Arguing Against Expansion of Quill

by Lisa Soronen

The State and Local Legal Center (SLLC) has filed an amicus brief in the Ohio Supreme Court urging it to rule that Ohio's commercial activity tax (CAT) applies to online vendors who sell in the state. The SLLC argues the holding of *Quill Corp. v. North Dakota* (1992), that states cannot require retailers with no in-state physical presence to collect use tax, should not be extended to a privilege-of-doing-business tax.

Ohio's CAT imposes a tax on gross receipts from any person having sales of over \$150,000 in the state and a "substantial nexus" with the State, including having at least \$500,000 of taxable gross receipts annually. The CAT is a privilege-of-doing-business tax charged directly to the retailer not a sales or use tax.

Mason, Newegg, and Crutchfield have over \$500,000 of gross receipts annually from sales in Ohio exclusively online. They argue that Quill prohibits Ohio from making them pay the CAT because they have no physical presence in Ohio. Per Quill, out-of-state sellers must have a "substantial nexus" i.e. a physical presence in a state to be required to collect use tax. Mason, Newegg, and Crutchfield argue that Quill's physical presence requirement should apply to the CAT because it operates similar to a use tax.

The SLLC amicus brief argues that Quill is a bright-line rule that does not apply outside the sales and use tax context. The Ohio Supreme Court should not expand the reasoning of Quill to a privilege-of-doing-business tax because Quill has had "clear and deleterious ef-

fects on state treasuries and local economies."

While the SLLC usually only files amicus briefs in Supreme Court cases, it filed a brief in this case because limiting the reach of Quill is particularly important to SLLC members, which include the Big Seven organizations: The U.S. Conference of Mayors, National League of Cities, National Association of Counties, National Governors' Association, National Conference of State Legislatures, Council of State Governments and the International City and County Management Association.

All of the Big Seven organizations joined the brief along with SLLC associate members—the International Municipal Lawyers Association and the Government Finance Officers Association.

Obama Administration Announces Commitment to Address Prescription Drug and Heroin Use

During a press event in West Virginia, President Obama addressed the families and individuals affected by the epidemic of prescription drug abuse and heroin abuse to reaffirm his administration's commitment to stem the epidemic taking hold in cities and towns across this nation. The President announced federal, state, local and private sector efforts aimed at addressing the epidemic. There include commitments by more than 40 provider groups – representing doctors, dentists, advanced practice registered nurses, physician assistants, physical therapists and educators — that more than 540,000 health care providers will complete opioid prescriber training in the next two years.

In addition, CBS, ABC, the New York Times, Google, the National Basketball Association, Major League Baseball and other companies will donate millions of dollars in media space for PSAs about the risks of prescription drug misuse produced by the Partnership for Drug-Free Kids, ac-

cording the White House press release.

In addition the President released a Memorandum to Federal Departments and Agencies directing two important steps to combat the prescription drug abuse and heroin epidemic:

- **Prescriber Training:** First, to help ensure that health care professionals who prescribe opioids are properly trained in opioid prescribing and to establish the Federal Government as a model, the Presidential Memorandum requires Federal Departments and Agencies to provide training on the prescribing of these medications to Federal health care professionals who prescribe controlled substances as part of their Federal responsibilities.
- **Improving Access to Treatment:** Second, to improve access to treatment for prescription drug abuse and heroin use,

the Presidential Memorandum directs Federal Departments and Agencies that directly provide, contract to provide, reimburse for, or otherwise facilitate access to health benefits, to conduct a review to identify barriers to medication-assisted treatment for opioid use disorders and develop action plans to address these barriers.

More Americans now die every year from drug overdoses than they do in motor vehicle crashes and the majority of those overdoses involve prescription medications. Health care providers wrote 259 million prescriptions for opioid pain medications in 2012 – enough for every American adult to have a bottle of pills. Opioids are a class of prescription pain medications that includes hydrocodone, oxycodone, morphine, and methadone. Heroin belongs to the same class of drugs, and four in five heroin users started out by misusing prescription opioid pain medications.

Local Leaders Join Forces to Curb Prescription Drug Abuse and Heroin Epidemic

New Cooperative Purchasing Effort Offers Public Agencies Access to Lifesaving Medications

by Kathryn Kretschmer-Weyland

In conjunction with President Obama's announcement of local, state and federal efforts to address the growing problem of opioid misuse and abuse, local leaders today announced a new cooperative purchasing agreement to expand cities' access to potentially lifesaving opioid withdrawal medications.

The United States Conference of Mayors, the National Association of Counties, and the National League of Cities, with the U.S. Communities Purchasing Alliance and Premier, Inc., have secured industry-leading discounts for naloxone and medications containing buprenorphine. These medications help prevent painful withdrawal symptoms when a person stops taking opioid drugs. The program pools the purchasing power of more than 62,000 agencies in state and local government and the non-profit sector.

"Mayors across this nation are grappling with solutions to address the exponential rise in opioid overdoses occurring in our cities. We believe the expanded availability of this treat-

ment is another tool for mayors and cities to use in their efforts to stem this epidemic," stated U.S. Conference of Mayors CEO & Executive Director Tom Cochran.

"Medication-assisted opioid treatment programs can mean the difference between life and death," said National Association of Counties President Sallie Clark, commissioner, El Paso County, Colo. "Counties are uniquely situated at the intersection of the local health, human services, justice and public safety systems. We see firsthand the devastating effects of prescription drug abuse and heroin use. This is a non-partisan issue, and we are implementing smart strategies to address this growing problem in our communities."

"Healthy communities are made stronger by thriving residents. Access to drugs like these, that help people end their dependencies on opioids, is critical in the fight against opiate abuse," said Clarence Anthony, CEO and executive director of the National League of Cities. "Increasing access to this type of treatment is an important step in addressing a very

serious issue that faces U.S. cities of all sizes."

Announced at the organization's recent Fall Leadership Meeting, Conference of Mayors President Baltimore Mayor Stephanie Rawlings-Blake has created a special mayors' task force on substance abuse, prevention and recovery services, which will be headed by Boston Mayor Martin Walsh.

The U.S. Conference of Mayors is committed to helping fight this epidemic. Through the Premier contract, the medications are available and distributed by McKesson. For more information, and to watch a video of President Obama vocalizing his support for this initiative, visit this page. For additional information about U.S. Communities Cooperative Purchasing Program, please contact Kathryn Kretschmer-Weyland at kweyland@usmayors.org



MAYORS BUSINESS COUNCIL Member Profile



Founded in August of 2008 and based in San Francisco, California, Airbnb is a trusted community marketplace for people to list, discover and book unique accommodations around the world - online or from a mobile phone or tablet. Whether a spare bedroom, an apartment, a villa or a private island, Airbnb connects travelers to a more diverse and authentic range of experiences in over 34,000 cities and 190 countries.

For more Business Council profiles visit the USCM Website at usmayors.org/buscouncil

Enrollment Season: Stretch Your Benefits Dollars

Good Communication Can Help You Get the Most from Your Benefits Investment

by Kathryn Krestchmer-Weyland

In today's tight economy, no government wants to waste a dollar. But you may be doing just that if you're not effectively communicating the benefits package you provide your employees – especially during this critical enrollment season.

Today's employers spend about 30 percent of their payroll providing benefits to their workers. But few employees know what it really costs their employers to provide these benefits.

To get the full value of their investment, employers need to make sure employees understand and appreciate the benefits they provide. A solid communications strategy can help employers do just that.

Benefits Knowledge Associated With Employee Satisfaction

There's a strong association between benefits knowledge and employee satisfaction at work. Employees who understand their employer's benefits investment are more likely to be satisfied with their workplace.

Yet many employers fall victim to these common mistakes when it comes to benefits communication.

- Heavy reliance on one communication method. Just because you offer a benefits website or booklet doesn't mean your employees will read it or be fully educated. A variety of communication methods during enrollment usually works best, since employees have unique needs and preferred ways of learning. Unfortunately, most companies don't have the staff to dedicate significant resources to education so they rely on whatever methods are easiest to provide or readily available.
- A lack of decision analysis tools. It's not always easy for employees to choose the right benefits to protect themselves and their families. Insur-

ance jargon and multiple options and features of various products can complicate the selection process. Providing a way for your employees to enter personal information through worksheets or calculators can help them get individualized answers and make better purchasing decisions.

- Lack of a communications budget. While it's not necessary to have a hefty benefits education budget to be effective, employers who value their benefits investment must be willing to make employee education a priority.
- Inadequate promotion of wellness programs. Many employers offer wellness programs, but fail to properly communicate and promote their availability. Take advantage of the benefits enrollment period to talk about the company wellness program and encourage participation. Employers can not only improve employee health and lower health care costs, they can reap the benefits of improved employee morale and productivity.

How Can Governments Help Workers Better Understand Their Benefits?

Although most employers think they do a pretty good job communicating benefits, employees don't necessarily agree. Only 60 percent of employees whose employers offer benefits say their employer's current communication is very or fairly effective. And 9 percent say the benefits communication they receive is not at all effective.

Employees say several factors are important in helping them make benefits decisions. In a recent Colonial Life survey, workers suggested several ways their employers can help them better understand their workplace benefits.

- Provide benefits information they can access at home or work. Employ-

ees need the time and opportunity to discuss and make benefits choices with their families. So group meetings and the company intranet won't work for family members. Complement the electronic communication you provide for employees at work with printed brochures or web-based resources that outline the company's benefit offerings, their purpose and their cost.

- Make benefits materials easier to understand. Simplify the language you use and eliminate benefits jargon in your communications materials whenever possible. Doing so will help employees better understand the message. Use concrete, real-life examples to illustrate your points whenever possible.
- Give employees an opportunity to talk with a benefits expert on company time. Employees who participate in one-to-one counseling sessions overwhelmingly report being satisfied with the process. Post-enrollment surveys by Colonial Life show 97 percent of employees say personal counseling sessions improved or significantly improved their understanding of their benefits
- Communicate benefits information more frequently. Communicating employee benefit choices once a year at annual enrollment simply isn't enough. Look for opportunities to communicate your benefits packages throughout the year as part of an overall communication strategy.
- Personalize benefits information to meet employee needs. All employees are not the same. They have unique needs, family situations and financial concerns. Therefore, a one-size-fits-all approach to communication won't

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2015 MWMA Fall Summit Examines Current and Future Municipal “Sustainable” Waste Management

by Jubi Headley

Public and private sector solid waste executives from cities across the country convened in Evanston, IL, from October 12th through the 14th to discuss trends, emerging technologies and best practices in the solid waste industry at the 2015 Municipal Waste Management Association (MWMA) Fall Summit.

The Fall Summit kicked off with a presentation on cities’ ability to further zero waste, product stewardship, and other sustainability goals through ordinances and policy measures. Heidi Sanborn, Executive Director of the newly-formed National Stewardship Action Council (an outgrowth of the renowned California Product Stewardship Council), noted that in the zero waste context, the public policy power is often most effectively employed when used to address hard-to-handle commodities in the waste stream. This has been the case with prescription medications, which are typically collected at the local level through scarce voluntary sites, or through one-day take-back programs. These can have some impact – not as much, however, as permanently established and funded take-back sites. In Alameda County, CA, these challenges led to the county passing an ordinance which requires pharmaceutical companies that sell prescription medications in the county to establish and fund a prescription medication take-back and disposal program, among other requirements.

This ordinance was vigorously opposed by the pharmaceutical industry on multiple grounds. Art Shartsis, the attorney who successfully defended the ordinance in the U.S. Ninth Circuit Court of Appeals, underscored the importance of this ordinance, the first prescription drug stewardship program in the United States. Shartsis noted that the United States Supreme Court declined to hear the case, which left in place the Ninth Circuit’s decision to uphold the ordinance. This decision represents the first major extended producer responsibility,

or EPR, decision by a U.S. appellate court; furthermore, because it did not challenge per se the ability of a local government to regulate a national industry, by default the ability of local governments to establish EPR programs across industries was reinforced. Shartsis and co-panelist Bob Gedert, chief of Austin (TX) Resource Recovery, suggested that the Alameda County pharmaceutical EPR ordinance could be used as a model for other hard and/or costly-to-handle waste commodities in communities, from needles (sharps), mercury thermostats and fluorescent lighting to oil, tires, paint, and even major ap-



Participants in the Fall Summit panel on mixed waste processing. Left to right: GBB President Harvey Gershman; Montgomery, AL Public Works Director Tim Conway; panel moderator and Honolulu, HI Director of Environmental Services Lori Kahikina; and Houston, TX Chief Operating Officer Harry Hayes.

pliances and electronics.

A hot topic that’s been the subject of a great deal of media coverage in 2015 is the increasing cost of recycling—for haulers, for cities, for everyone involved essentially. In a Fall Summit panel on the topic, however, experts in the field reassured the Fall Summit audience that, despite a number of reports in the media to the contrary, the rumors of the death of recycling have been exaggerated. The panelists – Susan Robinson, Waste Management’s director for federal public affairs, Chaz Miller, director of policy and advocacy at the National Waste and Recycling Association,



MWMA President and St. Petersburg Sanitation Director introduces Evanston Mayor Elizabeth Tisdahl, on hand to officially open the 2015 Fall Summit.

and Tim Croll, director of solid waste for the city of Seattle – universally suggested that through well-crafted collection contracts that fairly and responsibly assign risks and responsibilities, among other strategies, the costs of recycling can be more effectively managed.

Other topics discussed at this year’s Fall Summit included:

- Using apps and other mobile technology to promote and educate residents about what and how to recycle in communities, featuring presentations from the cities of Portland, OR; Madison, WI; and Denver, CO;
- The potential for cities and counties to manage food waste – fully one third of the municipal solid waste stream – through wastewater treatment systems, effectively treating food waste as a water resource; and
- The current state of – and future prospects for – mixed waste processing systems in cities, featuring presentations from City of Houston Chief Operating Officer Harry Hayes; Montgomery, AL Public Works Director Tim Conway; and Harvey Gershman, President of Gershman, Brickner and Bratton, Inc.

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Linebarger Goggan Recovers Millions For Cities

by Kathryn Kretschmer- Weyland

Coast to coast, cities have discovered a new source of revenue to help pay for essential public services and without raising their constituents' taxes or user fees. Chicago found over \$446 million, Denver almost \$10 million, Dallas and the Dallas Independent School District more than \$1 billion, Fort Worth \$44 million, Houston \$230 million, Las Vegas \$3.6 million, Miami and the Miami-Dade County Clerk of Courts over \$88 million, Philadelphia \$100 million, San Francisco \$1.3 million, and the list goes on and on. There are literally hundreds of these successful, revenue-generating stories, and their secret – partnering with the law firm of Linebarger, Goggan, Blair & Sampson, LLP.

For almost 40 years, Linebarger Goggan has been helping cities reclaim millions of dollars in lost revenue from delinquent taxes, municipal court fees and fines, traffic citations, and parking tickets. As a four-time winner of the coveted USCM public-private partnership awards, the firm strives to find the right solution for every client they serve.

In Houston, the law firm works closely with the city and the local tax collector to transform abandoned properties into attractive, property tax-generating real estate. Local properties sit vacant, creating unsafe condi-

tions that require city action and expenditures to protect public health and safety, all while lowering the neighboring property values. Many of these property owners are delinquent, and for years they fail to meet their tax obligations. Mayors across the country are all too familiar with this scenario.

While the collection method of last result, tax foreclosure suits are filed and tax sales are held to allow new owners the opportunity to improve the value of the property and pay taxes in a timely fashion. This program has worked time and time again from Philadelphia to El Paso. "Allowing delinquent property taxes to go uncollected places an unfair burden on those taxpayers who do pay and costs cities valuable resources that could go into supporting core city services," said Partner Scott McGlasson.

In Chicago, Miami, Little Rock, Denver and other municipalities across the country, parking tickets and traffic citations are no longer ignored by scofflaws who may have once considered such violations the cost of doing business. Working with the municipal courts, Linebarger Goggan implements a systematic program for contacting defendants and collecting valuable revenue for each city. "Our programs are all customized to the specific

needs of each city," McGlasson noted. "We spend considerable time upfront working with our clients to develop the message and the program they want in place, recognizing that many of their delinquent accounts receivable are owed by their own constituents. The goal is to collect these accounts, while treating everyone with respect and fairness throughout the collection process."

Over 62 percent of Linebarger Goggan's clients have retained their services for ten years or more, a testament to both the firm's performance and commitment to excellent customer service. Linebarger Goggan's practice is dedicated to assisting its public sector clientele improve their bottom lines by helping them recover their delinquent receivables. They could no doubt help your city as well.

The law firm has been a Platinum Partner with USCM since 2007, and a member of the Business Council since 1998. For more information, contact Kathryn Kretschmer-Weyland at kweyland@usmayors.org



MWMA

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Gershman also discussed future trends in the solid waste industry with Kristin Smith, an editor with the Recycling Today Media Group. A focus on zero-waste-to-landfill, a greater focus on deriving energy from waste, and an increased use of policies and ordinances to establish sustainable waste management strategies emerged as major trends. These trends speak, according to Smith and Gershman, to a greater concentration on the circular economy. It's conceived as an alternative to the typical or traditional linear economy or product life cycle of "make, use, dispose." In a circular economy resources are kept in use for as long as possible; the maximum value is extracted from those resources while in use;

and at the end of a product's life cycle, the raw materials from which it's composed are recovered and/or used to regenerate new products.

In addition to Gershman, Brickner & Bratton, premiere sponsors of the Fall Summit included Waste Management, Republic Services, Rehrig Pacific Company, and RRS/The Carton Council. Lytx, Enevo, Routeware, and Hawkins, Delafield and Wood are additional sponsors.

To view the full Fall Summit agenda, as well as presentations from each the sessions, visit the MWMA Virtual Conference Center at <http://www.usmayors.org/mwma/fallsummit15>.



Charleston Mayor Riley Welcomes the Return of the Mayors' Institute on City Design

The Mayors' Institute on City Design (MICD) was held in Charleston, SC from September 23-25 for its 63rd National Session. Hosted by Mayor Joseph P. Riley, Jr., who founded MICD over 25 years ago, the event was attended by Anchorage Mayor Ethan Berkowitz; Asheville Mayor Esther Manheimer; Austin Mayor Steve Adler; Henderson Mayor Andy Hafen; Honolulu Mayor Kirk Caldwell; Hope (NJ) Mayor Timothy McDonough; Providence Mayor Jorge Elorza; and Santa Monica Mayor Kevin McKeown. Experts in architecture, landscape architecture, urban planning, real estate development, transportation planning, and urban design joined the mayors in the two-and-a-half-day discussions and offered pragmatic advice on how the mayors could approach the design and development challenges facing each of their cities.

The 63rd National Session began with a walking tour of the historic downtown Charleston led by Horizon Project Foundation CEO Michael Maher. The tour showcased major downtown sites that have been instrumental to Charleston's transformation as a destination city, including King Street, Waterfront Park, and historic preservation efforts of the city's residences. Later that evening, the opening reception and dinner were held at City Gallery, which prominently features Charleston's waterfront revitalization. Mayor Riley presented on the role of design in Charleston's transformation after remarks were made by the MICD Director Trinity Simons; National Endowment for the Arts Director of Design Programs Jason Schupbach; American Architectural Foundation President and CEO Ron Bogle, Hon. AIA; and the USCM CEO and Executive Director Tom Cochran.

Caldwell initiated the design discussions the following morning, presenting on Honolulu's efforts to redevelop the Neal S. Blaisdell Center site located at the heart of downtown. In response to local needs for modern performing arts and exhibition space, the city and county envision the site



Left to Right: Austin Mayor Steve Adler; Asheville Mayor Esther Manheimer; USCM Managing Director Tom McClimon; Pei Cobb Freed and Partners Founding Partner Henry Cobb; AAF President and CEO Ron Bogle; NEA Director of Design Programs Jason Schupbach; SHoP Architects Principal Vishaan Chakrabarti; MICD Director Trinity Simons; University of Pennsylvania School of Design Dean Marilyn Jordan Taylor; Nelson\Nygaard Principal Zabe Bent; Anchorage Mayor Ethan Berkowitz; Santa Monica Mayor Kevin McKeown; Hope Mayor Timothy McDonough; Minneapolis Long Range Planning Director Kjersti Monson; Hood Design Studio Principal Walter Hood; Henderson Mayor Andy Hafen; Honolulu Mayor Kirk Caldwell; Providence Mayor Jorge Elorza; MICD Program Manager Jeff Jamawat; NBBJ Principal Alex Krieger; Charleston Mayor Joseph P. Riley, Jr.; USCM CEO and Executive Director Tom Cochran

as a true civic center that appeals to local ethos, honoring the island's inherent connections to the past, the mountains, and the sea ("mauka, kula, makai"). The Resource Team advised the mayor to expand the vision in a broader neighborhood context and establish a grid by creating a network of streets through the site.

Manheimer followed with a discussion on the East End neighborhood abutting downtown Asheville. Prompted by the development pressure to meet rising demand for rental properties, the city is seeking community engagement strategies to help guide the visioning process and define the planning area boundaries of the neighborhood. The Resource Team encouraged the mayor to probe the issues of growth and change in the community, understanding its assets, opportunities, and challenges through the lens of East End's residents.

Hafen presented on the city's efforts to reimagine the Henderson Convention Center and the adjoining Events Plaza on Water Street. The city is evaluating different redevelopment scenarios for the site, including facility upgrades, remodeling, and expansion. The Resource Team weighed in on the feasibility of a new convention center in the regional context and offered design strategies as well as programmatic ideas for the plaza.

Elorza concluded Thursday's discussions by presenting on Providence's efforts to revitalize the historic Cathedral Square that sits on the southwestern edge of downtown. Proud of the square and its heritage, the city is seeking low-budget, easily implementable ideas to help animate the space, bringing critical mass and breathing new life into the public realm. After giving guid-

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CHARLESTON

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ance on the broader connectivity and safety issues, the Resource Team pointed out that the square should also serve people who live around it.

McDonough commenced the discussions on the final day of the Institute with a presentation on Hope Township's growth strategy. With the goal of increasing its tax base, the town is seeking land use, design, and development framework to attract businesses to the I-80 corridor, recognizing that the limited supportive infrastructure presents a challenge. The Resource Team offered suggestions on how the town can capitalize on its rural character and history through tourism, emphasizing that Hope should make its identity legible and think of the town as part of a larger landscape system in the region.

Berkowitz presented on Anchorage's efforts to conceptualize a pilot "neighborhood resilience center" in east downtown that embodies the sustainable community principles. The resilience center model development would serve as a community center that is a hub for community events

and gatherings, providing neighborhood-focused services such as urban agriculture, sustainability-focused education, and gymnasium. The Resource Team discussed the resiliency concept in the context of Anchorage and identified key factors that can inform the site selection criteria for a pilot facility.

Adler followed with a presentation on the South Central Waterfront located along Lady Bird Lake across from downtown Austin. The city would like to define the leadership role of the mayor in planning and development not only in this project but also citywide. The Resource Team broached the expectations, purview, and limitations of the mayor's role in championing good design, as well as offering specific suggestions on the working plan for the South Central Waterfront.

McKeown concluded the Institute by presenting on Santa Monica's efforts to develop a key parcel at the terminus station of Los Angeles Metro's Expo Line. The city is looking at short- and long-term uses of the property, site access and circulation, land use around the station, and urban design. The Resource Team considered topographic challenges of the parcel and advised

the mayor to close the freeway off-ramp nearby to help facilitate the multi-modal connections and traffic flow around the site.

Joining the mayors at this National Session was a distinguished group of Resource Team members: Nelson \ Nygaard Principal Zabe Bent; SHoP Architects Principal Vishaan Chakrabarti, AIA; Pei Cobb Freed & Partners Founding Partner Henry Cobb, FAIA; Hood Design Studio Principal Walter Hood; NBBJ Principal Alex Krieger, FAIA; City of Minneapolis Long Range Planning Director Kjersti Monson; and the University of Pennsylvania School of Design Dean and Paley Professor Marilyn Jordan Taylor, FAIA.

MICD is a National Endowment for the Arts leadership initiative in partnership with the American Architectural Foundation and the USCM. The 63rd National Session was sponsored in part by United Technologies Corporation. Since 1986, MICD has helped transform communities through design by preparing mayors to be the chief urban designers of their cities. MICD conducts several sessions each year. For a list of upcoming events, past participants, or for more information, visit micd.org and follow @MICDdotORG on Twitter.

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U.S. Supreme Court Confirms Retirement Plans' Duty to Monitor Plan Investments

by Kathryn Krestchmer-Weyland

The U.S. Supreme Court reached a unanimous decision in *Tibble v. Edison International* on May 18, 2015 holding that plan fiduciaries have an ongoing duty to monitor and remove imprudent plan investments from their defined contribution plans. The Supreme Court overturned lower federal court rulings that held plan fiduciaries only had a duty to review plan investments if circumstances had changed since the plan fiduciaries initially selected the investments.

In this case, Edison plan participants sued Edison and the plan fiduciaries to recover investment losses from alleged breaches of fiduciary duty for offering six retail share class mutual funds in the plan when lower-priced institutional share classes were available. Under ERISA and state laws applicable to governmental plans, plan fiduciaries have the duty to act in the best interest of plan participants and to ensure fees are reasonable.

A U.S. District Court in California held that Edison had breached its fiduciary duties with respect to three retail mutual funds in the plan by not thoroughly investigating all share classes available to the plan. With respect to the other three retail funds in the plan, however, the Dis-

trict Court dismissed the participants' claims. The court held that these three funds were added more than six years prior to the filing of the claim and therefore barred by ERISA's six-year statute of limitations. In general, ERISA provides that breach of fiduciary duty claims may not be brought by participants more than six years after the last action that constituted part of the breach.

Edison plan participants appealed to the 9th U.S. Circuit Court of Appeals, arguing that ERISA's statute of limitations should not apply because plan fiduciaries have an ongoing duty to monitor plan investments. The 9th U.S. Circuit Court of Appeals disagreed. Edison plan participants appealed to the Supreme Court.

On appeal, the Supreme Court noted that ERISA, like applicable state law, is based upon the principles of trust law, which charges the trust fiduciaries with a continuing obligation to monitor and, if necessary, to remove imprudent investments. Accordingly, the Supreme Court ruled that there is a continuing fiduciary duty to monitor plan investments, which is separate and distinct from the initial duty to act prudently when selecting plan investments.

Practical Considerations: This case reinforces the fact that the role of a plan fiduciary is active, not passive. It affirms the need for plan fiduciaries to have a prudent process in place for thoroughly investigating and reviewing investment options and available fee structures when making plan decisions. It also emphasizes the fiduciaries' continuing duty, separate and apart from the duty to exercise prudence when initially selecting trust investments, to monitor, and remove imprudent investments. Fiduciaries may be liable to plan participants for not conducting a "regular review of its investments." If the plan fiduciaries lack the requisite education, experience and skill to prudently review investments, they should hire experts to assist them.

For more information on this topic or to find out more about the U. S. Conference of Mayors Deferred Compensation Plan with Empower, please contact Kathryn Krestchmer-Weyland at 301-460-5251



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work. Whenever possible, make benefits education personal and relevant to employees. Individualized counseling sessions and interactive decision-making tools can be effective ways to offer personalized communication.

Don't Go It Alone. Partner with Others to Expand Your Resources

Effective benefits education doesn't have to break the bank. Employers can tap into the educational resources offered by many benefits providers to develop a strong communications strategy. Some carriers even offer communication services at no cost in exchange for meeting individually

with employees during enrollment. This kind of personal communication can help employers effectively communicate their core benefits offerings, along with any additional benefits made available during enrollment.

Get Your Money's Worth

Employers offer benefits to their employees because they care about the health, financial well-being and quality of life of their workforce. But unless employees know about their benefits and appreciate them, employers can't get a full return on their investment. Partnering with a strong benefits partner to develop a comprehensive communication strategy can help employers extend their resources and get the most from their hard-earned dollars.

For more information about this article or Colonial Life's products and services please contact Kathryn Krestchmer-Weyland at 301-460-5251 or kweyland@us-mayors.org.





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