



Municipal Reporter

**CITY OF
PITTSTON**

Streetscape Impact - page 14

Infrastructure Edition



APMM President for 2021-22

Amy Farkas

Manager, Harris Township

Managing Institutional Portfolios Since 1972



CS McKee
One Gateway Center
Pittsburgh, PA 15222
csmckee.com · 412.566.1234

CS McKee



U·COMP
Unemployment Compensation Trust

Unemployment Compensation Coverage

**Serving
Municipalities
And
Authorities
Since
1985**

**For more information,
please call Debbie Gross
at 1-800-922-8063 or email
dgross@pml.org.**

**The Pennsylvania Municipal League
414 North Second Street
Harrisburg, PA 17101**

- ✓ Your partner to lower unemployment claims.
- ✓ Open to all classes of Pennsylvania municipalities and authorities.
- ✓ Provides great opportunities for dividends.
- ✓ Offers representation at unemployment hearings.
- ✓ Competitive annual rates due to actuarial calculations.
- ✓ No separate sign-up fees to join the program.
- ✓ Prompt and professional service through experienced support staff.



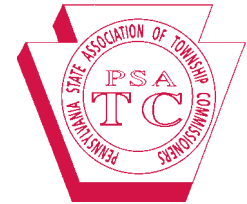
PML.org



Municipal Reporter



Pennsylvania Municipal League



OFFICERS

President – Derek Green,
Councilmember, Philadelphia

First Vice President – Danene
Sorace, Mayor, Lancaster

Second Vice President – Michael
Lombardo, Mayor, Pittston

Secretary/Treasurer – Rick
Schuettler, League Executive Director

STAFF

Executive Director –
Rick Schuettler, x*235 – *Publisher*

Director of Communications –
Debbie Bitting, x*223 – *Editor*

Accounting Clerk – Shawn Bradford,
x*231

Executive Director Designate –
John Brenner, x*230

**Training and Development
Representative** – Alexis Brower, x*253

**Marketing and Member Services
Representative** – Marcia Cavanagh,
x*256

Meeting Manager –
Mary Costik, CMP, x*232

**Risk Management/Claims
Coordinator** – Steve Ecker, x*247

**Governmental Affairs
Representative** – Kaitlin Errickson,
x*226

**Member Service Representative
U•COMP** – Debbie Gross, x*254

**Director of Finance and
Administration** – Susan Helms, CPA,
x*228

**PennPRIME Member Services
Coordinator** – Cindy Howarth, x*250

Communications Manager –
Holli Hugendubler, x*233

Accounting Clerk –
Colleen Ingersoll, x*234

Communications Representative –
Britton Kosier, x*224

**Director of Marketing and Member
Services** – Harry Krot, x*321

Executive Assistant – Amanda Lane,
x*319

Facilities and Systems Manager –
Lisa Longenecker, x*229

**Director of Training and
Development** – Anne McCollum, x*255

Sustainability Coordinator – Leslie
Rhoads, x*237

**Training and Development
Representative** – Christy Saliaris,
x*322

Director of Governmental Affairs –
Amy Sturges, x*225

Director of Insurance Services –
Angela Tennis, x*258

**Insurance Services
Representative** – Dona Yedlock, x*249

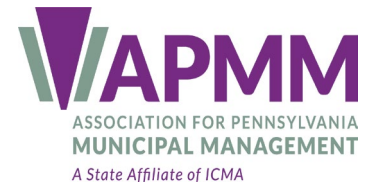
President – Nate Silcox,
Hampden Township

First Vice President – Sam
Valenza, Upper Moreland
Township

Second Vice President – Sam
Juliano, North Versailles Township

Third Vice President – John
Jablowski, Wilkes-Barre Township

Secretary/Treasurer – Dean
Villone, Lower Allen Township



President – Amy Farkas,
Manager, Harris Township

First Vice President –
Gregory Primm, Manager,
Allegheny Township

Second Vice President –
Amanda Serock, Manager,
Concord Township

**Secretary/Treasurer/
Managing Director** – Rick
Schuettler, League Executive
Director

Our Mission

To strengthen, empower and advocate for effective local government.

The League is a nonprofit, nonpartisan organization established in 1900 as an advocate for Pennsylvania's 3rd class cities. Today, The League represents participating Pennsylvania cities, boroughs, townships, home rule communities and towns that all share The League's municipal policy interests. Our Board of Directors oversees the administration of a wide array of municipal services including legislative advocacy (on both the state and federal levels), publications designed to educate and inform, education and training certification programs, membership research and inquiries, programs, and group insurance trusts.

We are continually monitoring the needs of our members and are committed to providing the Commonwealth's municipalities with cost-effective programs and services required to meet the distinct needs of their communities.

The *Municipal Reporter* is a publication of the Pennsylvania Municipal League, the Pennsylvania State Association of Township Commissioners and the Association for Pennsylvania Municipal Management. It is published three times a year.

Opinions expressed by authors and advertisers are not necessarily those of the officers, members and staff of The League. Original articles on subjects of interest to municipal officials are welcome, but subject to review by editorial staff. The publisher has the right to reject unsuitable advertising.

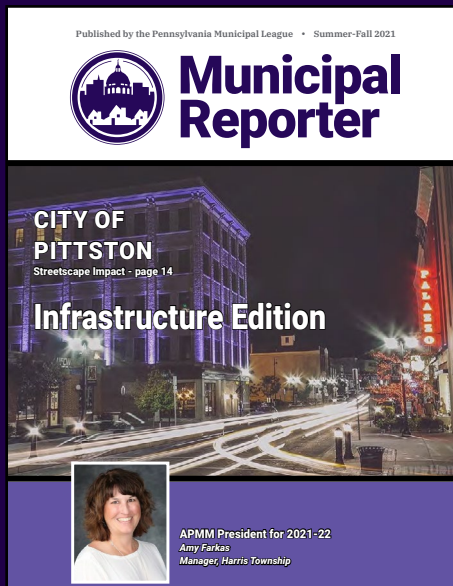
All inquiries should be addressed to Debbie Bitting, Director of Communications, at:

717-236-9469, x *223, dbitting@pml.org, Fax 717-724-1663
414 North Second Street, Harrisburg, PA 17101



PML.org    #StrengthThroughEngagement

COVER



INFRASTRUCTURE EDITION CONTENTS

- 4... Association Officers and League Staff
- 7... Calendar of Events
- 8... League President's Message
- 9... League Executive Director's Message
- 10 .. Municipal Leadership Summit
- 11 .. Inside The League
- 12 .. League Leaders - Michael Lombardo
- 14 .. Infrastructure Articles
- 22 .. Business Leaders Network
- 24 .. PennPRIME
- 35 .. U•COMP
- 36 .. Legislative Status Report – State
- 42 .. Legislative Status Report – Federal
- 46 .. Public Finance
- 49 .. Legal Notes
- 56 .. Carlisle - All-America City
- 60 .. Professional Directory
- 62 .. PSATC President's Message
- 65 .. APMM President's Message
- 66 .. APMM News

Annual subscription rate for The League's *Municipal Reporter* — \$45.

© 2021 Pennsylvania Municipal League

VISIT US AT PML.ORG

Our website is the embodiment of our mission to strengthen, empower, and advocate for effective local government. Visit Today!



YOUR BENEFITS

THE MEMBER DASHBOARD

As a member, you have access to a large range of exclusive services and resources. **Log in today and see how your Membership(s) can empower you!**

Visit PML.org/pml-member-dashboard now.

FAST & INTUITIVE EXPERIENCE

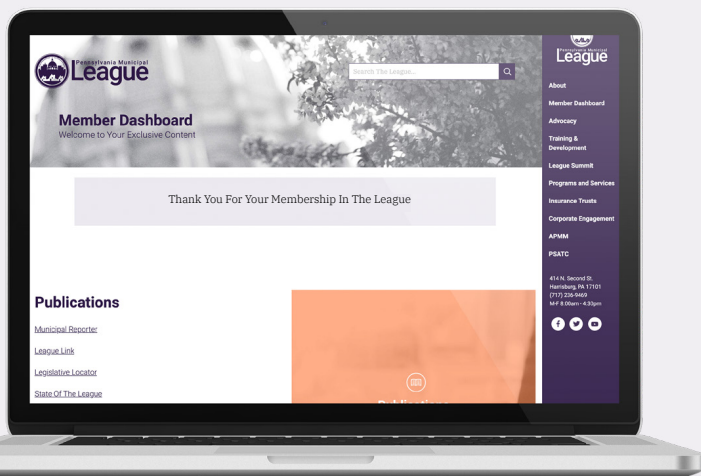
PML.org was built with our membership in mind. It's **easy to navigate** with the important information just a click away. **See upcoming League Events, Services, Training Programs** and have **access to the information your community needs.**

FIRST-CLASS MOBILE CONVENIENCE

A website falls flat if you're not able to make it work on mobile. At PML.org, you have the strength of The League in your pocket. This ensures you can engage with The League wherever you are.

STAY UP-TO-DATE

The latest and greatest news and events are easily found. With a constantly changing landscape, count on us to be your number one resource to stay on top of it all. No more hunting around different places. It's all at PML.org!



Mark Your Calendar

Please note that we are working to meet your educational/training needs during this pandemic. Some of our scheduled events will be virtual as noted and others are subject to change as needed. Please click the calendar link to our website above for additional/updated information.

U•COMP Board of Trustees Meeting
August 19

Omni Bedford Springs Resort

**PennPRIME Virtual Keynote Speaker,
Annual Membership Meeting and Training Session**
September 21

PennPRIME Board of Trustees Subcommittee Meetings
September 23

Lancaster Marriott at Penn Square

PennPRIME Board of Trustees Meeting
September 24

Lancaster Marriott at Penn Square

ICMA Annual Conference
October 3–6

Portland, Oregon

Milburn Park Playground Build
October 4–6

Milburn Park, 217 Dauphin Street, Lancaster

League Board of Directors Meeting
October 7

Lancaster Marriott at Penn Square

Municipal Leadership Summit
October 7–9

Lancaster Marriott at Penn Square

APMM Fall Managers' Meeting
October 21-22

Hilton Harrisburg

U•COMP Board of Trustees Meeting
November 10

League Office

NLC City Summit
November 18–20

Salt Lake City, Utah

PennPRIME Board of Trustees Subcommittee Meetings
December 2

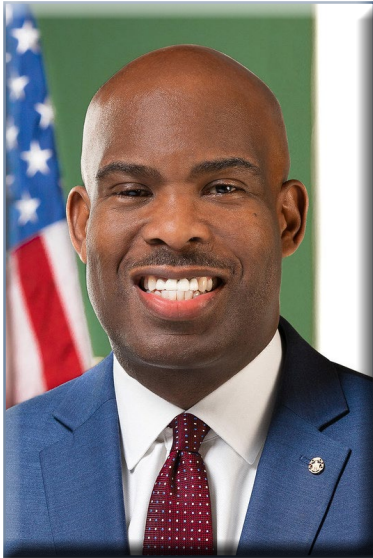
Hilton Harrisburg

PennPRIME Board of Trustees Meeting
December 3

Hilton Harrisburg

PML.org

The League President's Message



DEREK GREEN
COUNCILMEMBER
CITY OF PHILADELPHIA



To say that the past year and a half has been difficult and challenging is the epitome of an understatement. Dealing with the twin crises of COVID-19 and civil unrest, municipal officials have been tested in ways that no one could have imagined. In spite of all our struggles, the Pennsylvania Municipal League has remained a vital and essential asset to the cities and municipalities throughout our Commonwealth.

Despite the economic calamity caused by the pandemic, The League is in a strong financial position and we are making great strides in implementing our strategic plan. Further, we have strengthened our partnership with the National League of Cities to provide the information that our members want to navigate these troubling times. From providing webinars regarding the CARES Act and the American Rescue Plan to moving our traditional in-person events to virtual seminars, The League has adapted to members' needs during this critical time.

None of this work could have been accomplished without your support and membership. Additionally, it is our amazing staff that has facilitated this flexibility and has made The League nimble in such a critical time. I would like to thank our Executive Director Rick Schuettler for his amazing leadership and dedicated service during this difficult period and career with The League. We have big shoes to fill and our Executive Director Designate, John Brenner, is up to the task and we look forward to continued growth at The League under his direction.

As I conclude my term as President, I would like to welcome incoming President Mayor Danene Sorace of Lancaster. Mayor Sorace has been a strong advocate for Lancaster and The League. I look forward to her hosting us in her city for the Municipal Leadership Summit from October 7 to October 9. Further, we will be joined by our colleagues in the Pennsylvania State Association of Township Commissioners. After over a year of virtual Zoom, Skype and Microsoft Teams calls, it will be great to see you in person.

In closing, it has been a privilege and an honor to serve as your President. Through this tumultuous time, it has shown, more than ever, that the critical leadership that you provide is fundamental to Pennsylvania's resilience, success and growth.

Take care and be well,

A handwritten signature in black ink that reads "Derek S. Green". The signature is written in a cursive, slightly slanted style.

Derek S. Green, Esquire

The League Executive Director's Message

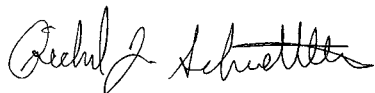
The theme of this edition of our Municipal Reporter magazine is infrastructure. Fortunate timing given the recent bipartisan passage by the U.S. Senate of the Infrastructure Investment Jobs Act (IIJA). This bill will make an extraordinary and necessary investment in your communities. For too long we have dipped our toe in the water but never proceeded with this type of effort. Pennsylvania's built environments require an investment of this magnitude to foster economic and community development. Our struggling communities cannot raise this level of capital investment at the local level given our antiquated tax structure.

Certainly, this edition contains great examples of infrastructure projects and improvements. Kudos to our members who have "found a way."

If we want our communities to thrive, the IIJA must be enacted into law. Be assured your League will continue our work with the National League of Cities (NLC) to realize this goal.

Please be safe. We look forward to seeing you in person at the Municipal Leadership Summit, October 7-9, at the Lancaster Marriott.

Stay well,



Richard J. Schuettler



[RICK SCHUETTLER](#)



↑ Click photo to view video.

Municipal Leadership Summit

OCTOBER 7 - 9, 2021

Lancaster Marriott at Penn Square



Registration is open!

Keynote Session: Emerging Issues in 21st Century Policing

Join 21CP Solutions partners Commissioner Charles Ramsey (ret.), Deputy Commissioner Nola Joyce (ret.), and Attorney Sean Smoot for a "fireside" style discussion about the trends, challenges and opportunities currently facing law enforcement and municipal management.



Deputy
Commissioner
Nola Joyce (ret.)



Police
Commissioner
Charles Ramsey (ret.)



Attorney
Sean Smoot

Agenda Highlights:

Why Equity Matters and How it Can Be Achieved

Presented By:

Vanessa Philbert, CEO, Community
Action Partnership

Adam Hosey, Chief Equity Officer, YWCA Lancaster

Overview of Deloitte's 2021 Human Capital Trends & Adaptive Workplaces

Presented By:

Megan McCarron, Senior Manager,
Deloitte Consulting LLP

Additional Sessions:

- Efficiencies in Community Park Maintenance and Open Space Management
- Vision Zero Harrisburg
- Economic Outlook - 2021 and Beyond
- 2021 Municipal Labor and Employment Update
- The Anatomy of a Ransomware Attack
- GIS and Story Maps: Connecting with your Community
- Planning for Adaptive Reuse in Chester County
- The Latest & Greatest on DEP's Local Climate Action Program
- Planning for Change: Local Government Succession Planning
- Phone a Friend: How to Maximize the Council-Manager Relationship

League News . . .

Inside The League



JOHN BRENNER
EXECUTIVE DIRECTOR DESIGNATE

"We have to get this right."

Taking a walk recently in downtown York reminded me of the New Deal Era public investment in people and buildings. The old post office still stands as a testament to the public works improvements of the 1930s. Large granite steps with massive and ornamental bronze light poles guide you to the stellar columns which welcome you to the entrance. The long lobby, brass adorned window moldings, gold leaf paint and cornices set the mood for an important public space. It was done right. Craftsmen likely labored with their talents, and lots of sweat and strength went into constructing these architectural gems that dot our cities and small towns. They help define the places we call home. Today, many are monuments to the past. Schools, libraries and municipal buildings. Far outliving the ever changing economy, streetscape and technology advancements. This is really the last time the federal government directly invested in local communities to this scale. During the New Deal, to thwart the Great Depression by putting people to work for the common good, the Civilian Conservation Corps was formed to employ millions to plant trees and help build structures in more than 800 parks across the country. Many believe this effort laid the foundation for the modern national and state system of public parks.

As we ponder the rules of the recent American Rescue Plan Act and ask our citizens about their priorities building back after the pandemic, large scale public buildings are not on the short list. Today's focus is on public safety jobs, air purifying equipment, housing, broadband, and sewer and water projects. All necessary and certainly require public investment. We await the action of our Congress on long overdue federal investment in infrastructure, particularly roads, bridges, transit systems and yes, parks and trails too. These assets of the greatest nation on the planet should reflect who we are and what we want our communities to be. It will require public funds. It will require leadership and compromise. It will require local leaders who are ready to lead the charge. Municipal leaders prove everyday – without federal funds – how to get projects done creatively and successfully. The feds should listen carefully to Mayors, Councilmembers, Municipal Managers and all other local officials who actually do the work and get it done.

On a recent League officers call to discuss legislative priorities, Executive Director Rick Schuettler said of the recovery funds coming to Pennsylvania, "We have to get this right." Indeed, we do.

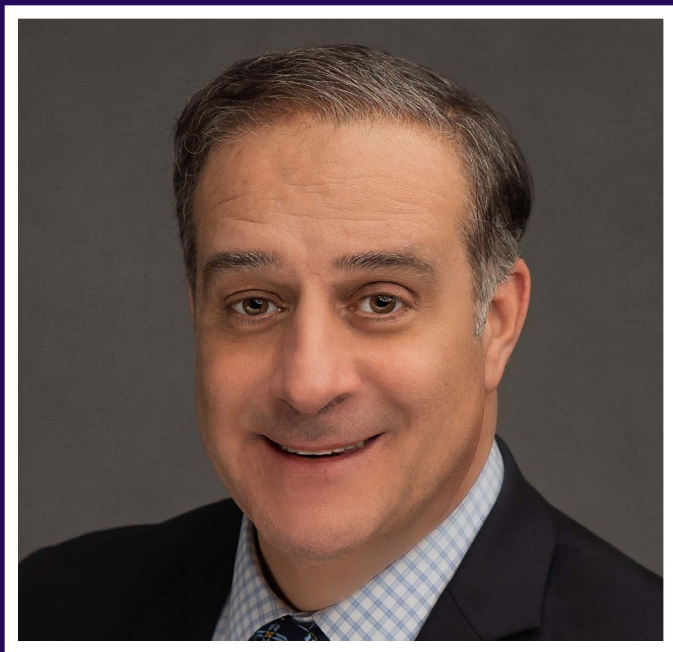
Share your community's successful rescue plan projects with your colleagues through The League website www.pml.org or through our monthly League Link. Tell your story about how important the federal funds are to help strengthen and empower your community. Together, we will get this right.

From Inside The League,

A handwritten signature in black ink that reads "John S. Brenner". The signature is written in a cursive, slightly slanted style.

John S. Brenner

Q&A with League Leader Michael Lombardo Mayor City of Pittston 2nd Vice President



This Q&A feature section of the Municipal Reporter highlights an individual local leader who has been involved and engaged with their community and The League.



Pennsylvania Municipal League

Q: Michael, thank you for your service as Mayor of the City of Pittston. How did you get involved with local government?

In early 1996, I reached the height of my frustration with the condition of the city where I grew up. After several attempts to get involved as a volunteer yielded little to no results, I decided it was time to run for office. I was elected mayor in November of 1997, and sworn in early January 1998.

Q: What leadership advice do you have for other local leaders?

Leadership isn't about being in charge: it's about leading the charge. Set both long- and short-term goals. Real progress can only be achieved by forging partnerships. Surround yourself with talented people. Learn from others: the Pennsylvania Municipal League provides a great platform for this! Most importantly, always remember, your reputation is what got you elected: always strive to protect it.

Q: What has been your most rewarding experience as an elected official?

Making a difference and helping people. I am extremely proud of the revitalization efforts realized to date in the City of Pittston. I am very honored to have been given an opportunity for a leadership role with the Pennsylvania Municipal League because I recognize the talent of those who serve with me, as well as those that have come before us.

Q: What has been the greatest challenge in your position?

Over my 20+ year career, the political landscape has become more divided and more vitriolic than ever. Social media, social divide and extreme partisanship have made holding office challenging; however, I have always believed that if you do the right thing, you are never wrong.

effort to interact with others serving in similar roles or elected positions.

Q: Thank you for serving on The League Board as our current Second Vice President. How has your involvement with The League helped you and your community?

The Pennsylvania Municipal League has afforded me the opportunity to learn and exchange ideas with other elected officials and community decision makers. The League is a vital tool for those in leadership positions, as it offers participating municipalities access to its talented staff.

Q: As this is our Infrastructure Issue, can you please share any of Pittston's infrastructure plans/initiatives?

Over the past 23 years, we have worked hard to modernize the infrastructure in the city. Tens of millions of dollars have been spent on storm and sewer upgrades including the separation of combined sewer and storm water outflows (CSOs) as well as multiple phases of streetscape enhancement throughout our downtown. Presently, we are completing a \$2.1 million dollar sewer upgrade, and are about to begin a \$2.5 million dollar investment of streetscape enhancement on the northern most sections of our Main Street. □

Editor's note: See page 14 for Pittston article.

Q: What advice do you have for people considering municipal government as a career or in an elected role?

Clearly define your goals; and, always remember that if elected or appointed to a municipal position, ultimately, you are afforded this opportunity by the constituents that have placed their trust in you. It is called "public service" because you should be serving your public that believes in you as an elected official. Take opportunities to engage in organizations like the Pennsylvania Municipal League, and make an

Pittston Sees Impact of Infrastructure Investment *Streetscape Projects Fuel Downtown Revitalization*

BY MICHAEL LOMBARDO, MAYOR, [CITY OF PITTSTON](#)



The City of Pittston is located on the east side of the Susquehanna River, halfway between the cities of Wilkes-Barre and Scranton. Early settlement dates back to the mid-1700s. The city gained prominence in the late 19th and early 20th centuries as an active coal mining and garment region, as well as a railroad center.

Not unlike many older cities across America, there was a time where Pittston's greatest days seemed to slip further into the past. The coal and garment industries suffered declines related to mining accidents, increased labor laws and a move away from domestic textile work. Urban sprawl, a newfound reliance on the automobile, malls and decreasing family size, all contributed to the economic slide that has continued over several decades.

A formerly bustling Main Street, that had once provided decades of jubilant memories for the Pittston community, was now sadly lined with boarded-up buildings and vacant lots. Where previously thriving businesses and historic structures once proudly stood, each with their own unique story to contribute, a new norm had denigrated the city. Demographic shifts resulted in a decline in neighborhoods. These factors led to a declining tax base; and, as a result, difficult decisions regarding operational priorities and investments allowed for the existence of aged infrastructure.

Over two decades ago, the City of Pittston gathered community stakeholders, completed a SWOT analysis and conducted

subsequent visioning sessions. The result was the development of a comprehensive plan that included both short- and long-term goals for its downtown and neighborhoods. The objective of the plan was to initiate revitalization that would create a sustainable community, economic stabilization and revitalization. The plan targeted eight areas:

1. Downtown development
2. Neighborhood stabilization and development
3. Infrastructure improvements
4. Operations restructuring
5. Arts and programming in parks and public facilities
6. Prioritizing and restructuring code enforcement and public safety
7. Assessment and evaluation of public facilities, public property and short/long-term maintenance schedules
8. Municipal cooperation

While all targeted goals have, in conjunction, led to a renaissance in the city, the infrastructure improvements component involved a comprehensive analysis of city owned infrastructure. This included: street lights, storm water system, sewer system, sidewalks and roads. The goal was to develop a strategy for infrastructure upgrades, and compliance with

regulatory entities such as the Department of Environmental Protection (DEP), etc., as well as coordinated efforts with the utility companies operating in the city, including: Pennsylvania Power and Light (PPL), PA American Water, UGI Gas, Wyoming Valley Sanitary Authority, Verizon, AT&T, Comcast, as well as other cable and internet service providers. The long-term goal was to prepare the city for future growth and development. Additionally, two specific areas of infrastructure focus involved streetscaping and sewer and storm water upgrades.

The first phase of streetscape work conducted by the City of Pittston began in 2007, with five additional phases of streetscape occurring from the downtown business district to the south boundary of Main Street. To date, approximately 10 million dollars in investments have been made in streetscape upgrades. These upgrades include: period lighting; sidewalk and curb replacement; removal of overhead power, particularly in the Central Business District when feasible; stamped concrete curb lines; additional underground conduit for future utilization; ornamental street trees; and, site amenities including decorative sign posts, upgraded signage/wayfinding, sculptures, ornamental benches, bike racks, and waste receptacles. The project boundaries involve state roadways, and this project was completed through city funding as well as several grant sources, including the Pennsylvania Department of Transportation, who is a valued partner in the aforementioned projects.

→

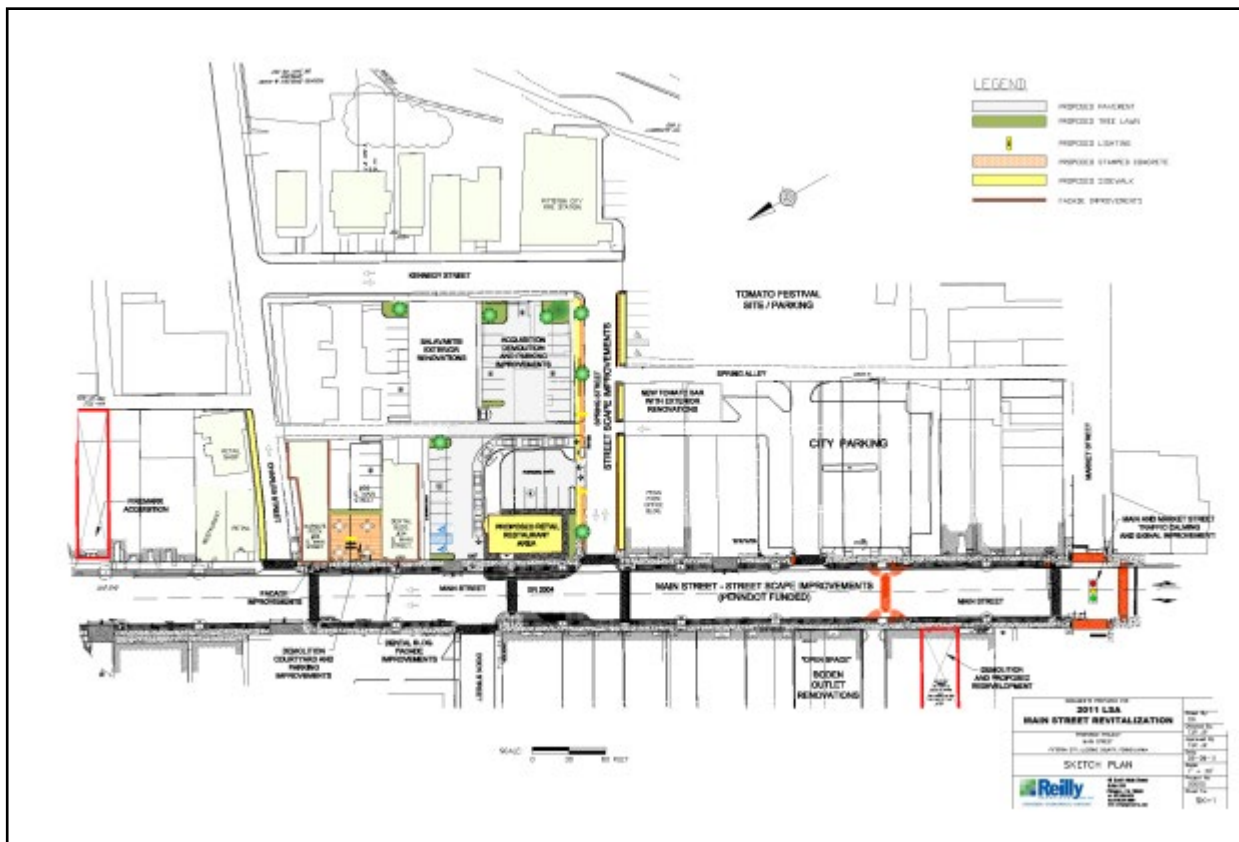
Currently, the overall effect of the streetscape projects has been transformative. This spark of possibility has served as a catalyst for in excess of 30 million dollars of public and private real estate improvements in the downtown, including both commercial and residential upgrades, as well as new construction. The streetscape projects have clearly fueled the downtown revitalization, and resulted in the creation of “place.” Presently, the city is in design and permitting for 3 additional phases of streetscape that will extend to the north-most border of Main Street. The city has secured approximately 3.3 million dollars of grant funds for an approximate 5-million-dollar overall project cost.

Another focus of the infrastructure investment program in the City of Pittston is storm water and sewer upgrades throughout the city. Because of the city’s age, much of the infrastructure is outdated and reaching, or has exceeded, its lifespan. Additionally, like many older cities, a large portion of the city’s storm and sewer system is combined; and, therefore under DEP mandate for separation. Over the past 20 years, the city has invested in excess of 8 million dollars in sewer upgrades and separation of combined storm and sewer systems. In 2020, the city and City of Pittston Redevelopment Authority initiated a 2-million-dollar sewer upgrade project on Panama Street. This project involved a complete replacement of a large capacity sewer line from the

east side of the city (Hughestown Borough line), to Main Street, where the city line connects to the Wyoming Valley Sanitary Interceptor line.

The city has worked through each of these projects with its utility partners to achieve maximum efficiencies related to cost, and to minimize disruptions to residents during large scale construction projects. In addition to cost savings, over-arching goals include complete curb-to-curb road replacement, avoidance of other utility work on recently resurfaced roads, handicapped corner access, sidewalk additions/replacements and relocation obstructions, i.e., utility poles in line of sight.

The city and its Redevelopment Authority are planning future



Initial Streetscape Phase 1

infrastructure improvements, and it is the intent of the mayor, council and administration to utilize 100 percent of its allocated American Rescue Plan Act (ARPA) funding for future infrastructure projects. This funding will allow for completion of identified priority infrastructure projects without incurring debt or accessing reserve funds. It is the belief that these funds combined with budgeted, dedicated capital improvement funds will ensure continued progress in infrastructure modernization.

The City of Pittston administration continues to recognize the urgency of prioritizing infrastructure projects to not only enhance, but, indeed, to improve our revitalization efforts. □



Streetscape Decorative Period Light



Streetscape Impact



Streetscape Site Furniture

Turnkey Help Available to Municipalities that Want to Expedite Lead Pipe Removal

BY ASHLEY SHIWARSKI, HOMESERVE DIRECTOR OF BUSINESS DEVELOPMENT

Congress is considering sending municipalities as much as \$55 billion to remove lead water pipes and service lines from local communities. There are many moving parts to this initiative and some uncertainty about whether and when Congress will approve the funds.

The potential availability of federal money is the ultimate good-news-bad-news story. The good news: After decades of inaction, the federal government may be willing to fund the removal of lead pipes, a known health hazard. The bad news: Municipalities likely will be overwhelmed by the administrative, scheduling and managerial burdens entailed in removing those pipes, to say nothing of performing the actual pipe-removal work itself.

But the best news is this: Municipalities have an experienced, expert partner in HomeServe USA, which stands ready to handle all aspects of lead pipe removal on a turnkey basis. HomeServe, who administers the National League of Cities Service Line Warranty Program, already works with nearly 700

municipalities making service line repairs for their residents. HomeServe does over 1,000 repairs across the country each day and has the service delivery platform, dispatch technology and contractor network to help remove this burden from a municipality.

The Problem

An estimated 9.2 million homes have lead water pipes and service lines, according to the Environmental Protection Agency.

Lead pipes were used for over 100 years in homes built mostly in the East Coast and Midwest, before scientists and public health professionals identified lead as a health risk.

According to the Centers for Disease Control and Prevention, there is no safe level of lead exposure for children. Lead can slow development and cause learning, behavioral and hearing problems in children, as well as lasting kidney and brain damage.

Lead pipes have been a known public health risk for decades, but

only now is the federal government making funds available to remove those hazardous pipes.

The availability of federal money means homeowners no longer need to choose between protecting their families and paying for the removal of lead pipes. It can cost between \$2,000 and \$5,000 to remove those lines from a single-family home. Typically, homeowners have had to pay for this themselves. The work is not covered by insurance.

New Money Creates New Headaches for Municipalities

Administrators at the nation's municipalities have their hands full transitioning to a post-pandemic world. If they have not managed a lead pipe removal program in their communities, many officials may be overwhelmed by a process that is complicated, multifaceted and resource intensive.

All major construction projects have sizable administrative, scheduling and managerial requirements. Lead pipe removal is no different. Is your municipality

staffed to handle the new challenges?

Beyond administrative burdens, there's the field work. Smaller municipalities, where the public works department may consist of only a handful of construction workers, don't have nearly enough workers to handle these new tasks. That means bringing contractors on board.

Once the construction work begins, there's a need for quality control. How many municipalities have QC inspectors on hand to review and certify the work of a contract construction firm? Then there's the invoicing and accounts-payable process, with the inevitable back-and-forth if invoices were improperly submitted, which often is the case.

At most municipalities, staff is hard-pressed to fulfill the tasks of their normal jobs. On their best days, they can flex to temporarily cover workers who are on vacation or fill in for workers who have retired.

But removing lead pipes may require hiring additional staff to manage the process, perform the work or both. How many municipalities, in the early stage of recovering financially from the pandemic, are ready to add new employees?

HomeServe USA Can Help

HomeServe USA wants to work with municipalities across the country to put those federal funds to work right away to get the lead pipes and service lines out of communities.

Our long-time partnership with the National League of Cities (NLC) is evidence of our deep experience in working with municipalities across the country. We have the requisite service delivery platforms, employ dedicated job schedulers, manage a dedicated nation-wide network of contractors and have made significant investments in technology.

We manage an unparalleled U.S. contractor network, which includes thousands of licensed and insured contractors who have performed over 4.5 million jobs all across the country. Our world-class logistics-management capabilities ensure your project is scheduled, managed and completed according to schedule.

To manage our national contractor network, we have built a large and robust referral and

communications network that allows us to quickly and easily schedule work projects. Our call center operates 24 hours a day, seven days a week, 365 days a year, to ensure responsiveness to customer questions.

If you're a municipal official and you're looking for lead pipe removal solutions, we urge you to get in touch with HomeServe USA today. To learn more, click [here](#) or call (866) 974-4801. □



Member
The League's
Business Leaders Network

"Investment in infrastructure is a long term requirement for growth and a long term factor that will make growth sustainable."

- Chanda Kochhar



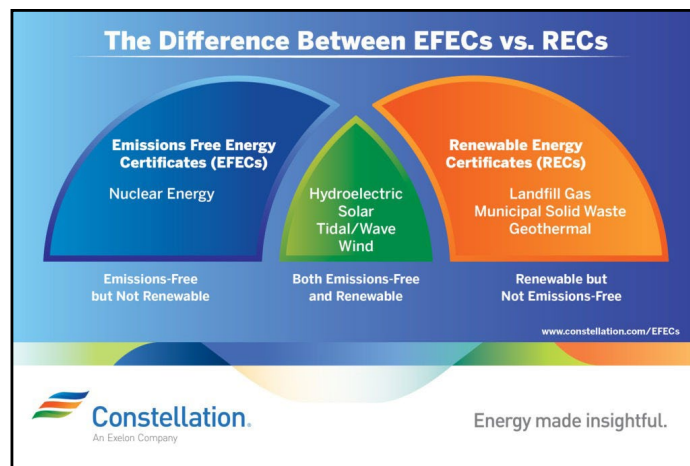
How Emission-Free Energy Certificates (EFECs) Help Communities Achieve their Carbon Goals

PROVIDED BY CONSTELLATION

Sustainability continues to be top of mind for energy managers. To develop a strategic plan, they must first determine their budget and carbon reduction goals. With the help of an energy supplier, municipalities can navigate the energy solutions that are available to them that meet these requisites.

[Emission-Free Energy Certificates \(EFECs\)](#) are one option, and an alternative to renewable energy purchases, that allow municipalities to quickly begin their process towards achieving and claiming lower emissions. This is an especially effective solution for:

- ▶ Communities that are not well-positioned to source their power from onsite renewable sources based on land or capital limitations.
- ▶ Communities that do not have a specific sustainabil-



ity roadmap established but want to communicate their incremental efforts and impacts.

When purchased alongside electricity, EFECs guarantee that equivalent energy was created from emission-free sources. By purchasing EFECs, customers take the emission-free attributes that can come from several generating sources, like nuclear, solar, wind, hydropower and more, that do not emit greenhouse gases from combustion. However, most of the time, EFECs sold in the voluntary mar-

ket are associated with nuclear or large-scale hydroelectric generation.

When weighing EFECs as an option for reaching sustainability goals, customers should: 1) consider whether their sustainability focus is on renewables or emissions, 2) understand emissions accounting and what energy claims can be made with EFECs, and 3) understand the growing importance of EFECs in the overall grid rate.

1. Delineating between renewable and zero-emissions goals.

Goals focused on being entirely renewable and on being emission-free both have their merits, but they are not the same. Renewable energy certificates (RECs) track the renewable and zero-carbon attributes associated with renewable generation, whereas EFECs track

the zero-carbon generation attributes associated with emission-free generation, which can include, but is not limited to, renewable generation (e.g., nuclear, solar, wind, hydropower, etc.).

The purpose of an EFEC is to support zero-carbon electric generation on the grid. Some REC sources like biomass and resource recovery have associated emissions and therefore cannot be labeled as emission free; however, renewables with zero emissions can generate EFECs. But not all EFECs (such as nuclear) are generated by renewable sources.

2. Understanding emissions accounting and the claims that customers can make with EFECs.

The World Resource Institute creates the greenhouse gas reporting standard that most companies use to account for their emissions, including emissions associated with purchased electricity, also known as “Scope 2” emissions. This guidance includes location and market-based accounting. All generation tracked throughout the market is provided certificates, whether renewable, emission-free or other emissions rates. As customers buy and sell these attributes, they can make associated renewable or emissions claims related to their energy use. For example, after purchasing an EFEC, a customer could promote their emission-free efforts as:

- ▶ Supporting demand for generation sources that do not directly emit greenhouse gases.

- ▶ Demonstrating support of energy generation that produces little to no emissions.
- ▶ Showing commitment to operate without adding to pollution.

EFECs are interchangeable substitutes for RECs in greenhouse gas emissions accounting, because zero carbon holds the same weight across both options. If zero carbon is a customer’s main goal, EFECs may be the more cost-effective option.

3. Highlighting the importance of EFECs in the overall grid rate.

In 2019, 36 percent of electric came from zero-carbon generation, of which only 16 percent was renewable (i.e., solar, wind or hydroelectric). As we strive to reduce emissions from all electric generation, it is important to not just encourage new renewables but also maintain the existing zero-carbon generation, so that supply increases year over year. Several states have started to recognize the importance of emission-free energy as essential to sustaining lower grid emissions rates. New York, Illinois and New Jersey have all added nuclear power zero-emission credits to their clean power regulations. If a customer is not limited to only renewable technologies, using EFECs to support their goals can support all zero-carbon technologies that keep the overall emissions rate of the electric grid lower and achieve broader decarbonization goals.

All of these factors should be considered by energy buyers to en-

sure the credits they purchase are aligned with their defined sustainability goals. Constellation can help bring order to the chaos of environmental goals and reporting by providing [emission-free options](#) to your electricity supply and helping you to promote the benefits they may provide. □



Member

The League's
Business Leaders Network



Business Leaders Network



David Kerr
dkerr@att.com
717-269-5872

AT&T
351 Stanley Drive
Palmyra, PA 17078



Mike Palombo, Esq.
mpalombo@cdblaw.com
412-395-1280

Campbell Durrant, P.C.
535 Smithfield Street
Suite 700
Pittsburgh, PA 15222



Jennifer Frees
jennifer_frees@comcast.com
610-401-6482

Comcast Cable
1306 Goshen Parkway
West Chester, PA 19380



Brian Weatherford
brian.weatherford@constellation.com
410-470-1852

Constellation
1310 Point Street
9th Floor
Baltimore, MD 21231



Patrick Geary
pgeary@cornerstonewais.com
814-315-2000

Cornerstone Wealth Advisory & Insurance Services, LLC
3910 Caughey Rd., Suite 220
Erie, PA 16506



Carol Bigham
cbigham@dvtrusts.com
215-706-0101

Delaware Valley Trusts
719 Dresher Road
Horsham, PA 19044



Jessica Sprouse
jsprouse@gdfengineers.com
814-943-5214

Gwin, Dobson & Foreman Engineers
3121 Fairway Drive
Altoona, PA 16602



Kathleen McKenzie
Kathleen.McKenzie@highmark.com
717-302-7836

Highmark Blue Shield
1800 Center Street, 1B/L4
Camp Hill, PA 17011



Ashley Shiwarski
Ashley.Shiwarski@homeserveusa.com
724-749-1097

HomeServe
4000 Town Center Boulevard
Suite 400
Canonsburg, PA 15317



Jennifer CruverKibi, CPA
jcruverkibi@md-cpas.com
717-232-1230 x204

Maher Duessel
1800 Linglestown Road
Suite 306
Harrisburg PA, 17110



Business Leaders Network



Municipal Benefits Services

Steve Solman
Steve.solman@mbgbenefits.com
412-394-9332

Municipal Benefits Services
Grant Street, Suite 270
Pittsburgh, PA 15219



Fred Bean
fbean@benecon.com
717-723-4600

Pennsylvania Municipal Health Insurance Cooperative
201 E. Oregon Road
Suite 100
Lititz, PA 17543



PennPRIME
INSURANCE TRUSTS | A Service Program of The League

Angela Tennis
atennis@pml.org
717-236-9469 *258

PennPRIME
414 North Second Street
Harrisburg, PA 17101



John Molloy
molloyj@pfm.com
717-232-2723

PFM
213 Market Street
Harrisburg, PA 17101

PORTER & CURTIS, LLC
Specializing in achieving the impossible.

Ken Porter
kporter@portercurtis.com
610-891-9856

Porter & Curtis, LLC
225 State Road
Media, PA 19063

**SAUL EWING
ARNSTEIN
& LEHR^{LLP}**

William W. Warren, Jr., Esq.
William.warren@saul.com
717-238-7698

Saul Ewing Arnstein & Lehr
2 North Second Street
7th Floor
Harrisburg, PA 17101

GIANT[®]

Ashley Mahaffey
Ashley.mahaffey@giantmartins.com
717-254-2950

The Giant Company
1149 Harrisburg Pike
Carlisle, PA 17013



U-COMP
Unemployment Compensation Trust

Deb Gross
dgross@pml.org
717-236-9469 *254

U-COMP
414 North Second Street
Harrisburg, PA 17101

verizon[✓]

Frank Buzydlowski
f.p.buzydlowski@verizon.com
717-777-5858

Verizon
210 Pine Street
7th Floor
Harrisburg, PA 17101



PennPRIME
INSURANCE TRUSTS | A Service Program of The League

Facilities Maintenance

BY KENNETH F. PORTER, CPCU, ARM, AIAF, PORTER & CURTIS, LLC



Overview

Pay now, or pay *more* later – a lot more. The cost of preventative maintenance is always cheaper than fixing something after it breaks.

Take boilers for example. It is much cheaper to replace worn

parts than to wait for the system to fail. Not only is the maintenance cost cheaper, but it also makes the boiler run more efficiently and may extend its useful life.

The rule of thumb is that preventative maintenance is three to four times cheaper than the cost of emergency repairs.

Facilities Maintenance

Facilities maintenance describes the process of regularly servicing commercial buildings, appliances (i.e. boilers, elevators, HVAC equipment), and areas inside and around a building (i.e. rooms, hallways, and parking lots). Property maintenance involves the same activities but for residential buildings.

The three primary benefits of facilities maintenance are:

1. Continuity – Minimize disruptions and downtime
2. Safety – Prevent injury and property damage
3. Stewardship – Maximize asset life span

Maintenance workers are generally divided by responsibility:

1. Facilities manager – schedules maintenance and directs staff

Planned maintenance is performed before a breakdown to head off breakdowns, prevent injury or damage, and optimize the useful life of an asset. It ascribes to the practice of “it ain’t broke, so fix it” instead of “it ain’t broke, so *don’t* fix it,” acknowledging that the cost of breakdowns far exceeds the cost of regular maintenance.

The types of planned maintenance are preventative, predictive and proactive.

A summary of the maintenance types, timing of maintenance and maintenance philosophy follows:

Category	Type	Maintenance	Philosophy
Unplanned	Breakdown	After breakdown	Failure is routine
Planned	Preventative	Time or interval	Repair when nothing is wrong
	Predictive	Continuous monitoring	Repair when failure is imminent
	Proactive	Mix of preventative and predictive plus resolving root cause of breakdowns	Resolve upstream causes of breakdowns

2. Maintenance technician – performs maintenance and walkthroughs
3. Janitor – cleans buildings

Types of Maintenance

Maintenance falls into two categories: unplanned and planned.

Unplanned is where maintenance is performed after a breakdown. Breakdown maintenance is only appropriate when the failure does not result in any disruptions or downtime, does not present risk of injury or other damage, and the asset is not of significant value.

The most comprehensive form of planned maintenance is proactive maintenance. It incorporates the practices of time/interval maintenance and continuous monitoring (i.e. temperature and water sensors) with root cause resolution of maintenance failures. It treats the causes of equipment failure, not just the symptoms.

Checklists

A checklist is a handy way to make sure an area or structure is free of defects. It forces the inspector to look and see something that might otherwise go unnoticed.

Life Safety Systems

Part of facilities management is the care of a building’s life safety systems.

A life safety system is any interior building element designed to protect building occupants in the event of an emergency. They include fire detection and suppression systems, hand operated fire extinguishers, and carbon monoxide detectors.

Cooking fires are not only the most common types of fires in homes, they are also the leading cause of non-residential fires in the U.S.,

according to statistics from the U.S. Fire Administration.

Half of school fires, 70 percent of institutional fires and almost 40 percent of fires in public assembly places, such as churches, were caused by cooking, according to statistics compiled by USFA for 2014-2016.

That’s why every recipe for fire protection starts in the kitchen.

Asbestos Hazard Emergency Response Act (AHERA)

AHERA Regulation

The Asbestos Hazard Emergency Response Act (AHERA) is a fed-

→

eral law that regulates asbestos in elementary (including kindergarten) and secondary schools. AHERA is regulated by the United States Environmental Protection Agency (EPA).

The regulation requires schools with asbestos-containing building materials in “school buildings” to prepare and maintain an Asbestos Management Plan for the purpose of managing asbestos hazards. AHERA even mandates some requirements on asbestos-free school buildings.

The EPA defines “school building” to mean any space used as an auditorium, classroom, gymnasium, hallway, laboratory, library or kitchen.

A school built before 1980 likely contains some form of asbestos.

The legal requirements of AHERA are founded on the principle of “in-place” management of asbestos-containing material. Removal of these materials is not usually necessary unless the material is severely damaged or will be disturbed by a building demolition or renovation project.

Personnel working on asbestos activities in schools must be trained and accredited in accordance with The Asbestos Model Accreditation Plan.

In addition, if removal of asbestos during renovation is warranted, or school buildings will be demolished, schools must comply with the Asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP).

Asbestos Management Plans

Schools with asbestos-containing building materials are required to

develop and maintain an Asbestos Management Plan.

Among other things, AHERA requires inspection of known or suspected asbestos-containing building material every three years and surveillance of asbestos conditions every six months.

The plan is required to document the recommended asbestos response actions, the location of the asbestos within the school, and any action taken to repair and remove the material.

Documentation includes the three-year inspections, six-month surveillance reports, abatement work, annual asbestos awareness certifications for maintenance staff, annual notifications to employees and parents and an “asbestos free” designation letter if applicable.

Playground Equipment

Most playground equipment is inherently dangerous. That’s part of the fun for kids – swinging faster and higher, accelerating down a slide, or climbing to the top of the jungle gym.

That said, there are prudent steps playground owners can take to keep the inevitable thrills and spills from leading to serious injury.

Playground surfaces should be cushioned by at least nine inches of surfacing material such as wood chips (or six inches of shredded rubber) in all directions around equipment. Surfaces should be free of glass, trash, and other debris and regularly inspected.

No piece of equipment should be more than eight feet high, and elevated areas should have guardrails to prevent falls.

Playground equipment should be inspected regularly (at least once a quarter) for maintenance issues, including rust and splinters, broken, loose, or missing parts, sharp edges, and gaps that could trap fingers or toes.

Steps, platforms and walkways should be checked for slip hazards such as standing water or wet leaves.

External Resources

[United States Environmental Protection Agency – The Asbestos Hazard Emergency Response Act \(AHERA\)](#)

[United States Environmental Protection Agency – The Asbestos Model Accreditation Plan](#)

Updated 5/22/2020

Guidelines/Requirements

Boilers and Elevators

1. Service boilers and elevators in accordance with the manufacturer’s requirements.
2. Perform inspections as required by state and local laws and correct deficiencies with the time sensitivity of the condition and document in the form of a written response to the inspector.

Fire Protection

1. Keep a Class K portable fire extinguisher in kitchen areas and maintained in accordance with the manufacturer’s specifications. Operating instructions must be described on the side of the fire extinguisher. Class K extinguishers are used on

fires that involve vegetable oils, animal oils, or fats in cooking appliances.

2. Store a Class A portable fire extinguisher in any area with burning candles and maintained in accordance with the manufacturer's specifications.
3. Locate smoke and carbon monoxide detectors in all sleeping areas and, if not hard wired, batteries must be replaced in accordance with the manufacturer's recommendation.
4. Inspect commercial kitchens every calendar quarter using the checklist provided. Scan and attach the checklist to the structure record in Quadra. Any deficiencies must be immediately corrected where possible. All other deficiencies must be added to a corrective action log for tracking and resolution.

HVAC

1. Replace disposable filters and clean washable filters in accordance with the manufacturer's service instructions.
2. Clean vacuum heat vents at least annually.

Building Interiors

1. Inspect building interiors every calendar quarter using the checklist provided. Scan and attach the checklist to the structure record in Quadra. Any deficiencies must be immediately corrected where possible. All other deficiencies must be

added to a corrective action log for tracking and resolution.

Roofs and Gutters

1. Inspect roofs and gutters in the Spring and Fall and after every major wind-storm using the checklist provided. Scan and attach the checklist to the structure record in Quadra. Any deficiencies must be immediately corrected where possible. All other deficiencies must be added to a corrective action log for tracking and resolution.
2. Comply with the Work from Heights requirements if inspections and/or repairs are done by Location staff. See Section Personnel, Workplace Safety, Work from Heights. If outsourced, service providers must comply with the Service Providers contracting requirements regardless of contract amount. See Section Contracts, Service Providers.

AHERA Regulation

1. Develop and maintain an Asbestos Management Plan (AMP) and store in an Asbestos Management Plan Manual (AMP Manual) in the school office. The AMP Manual should be available to the public. The AMP Manual of any "asbestos free" schools must include a letter from the lead architect or general contractor certifying no asbestos containing building materials.
2. Document all activities in the AMP Manual.

3. Conduct inspections every three years. Inspections must be performed by a certified environmental contractor.
4. Conduct surveillances every six months and correct deficiencies immediately and document corrective action. Surveys can be conducted by maintenance workers with current annual two-hour asbestos awareness certifications on file.
5. Distribute annual AHERA notice to employees and parents. This notice is also required for "asbestos free" schools.
6. Provide two-hour asbestos awareness training for maintenance staff within 60 days after commencement of employment and annually thereafter. Not required for maintenance staff at "asbestos free" schools.

Playground Equipment

1. Inspect playground equipment every calendar quarter using the checklist provided. Scan and attach the checklist to the playground structure record in Quadra. Any deficiencies must be immediately corrected where possible. All other deficiencies must be added to a corrective action log for tracking and resolution. □





PennPRIME
INSURANCE TRUSTS | A Service Program of The League

Major Windstorm Damage Prevention

BY KENNETH F. PORTER, CPCU, ARM, AIAF, PORTER & CURTIS, LLC

Overview

“The time to repair the roof is when the sun is shining,” said President John F. Kennedy.

That’s sound advice when it comes to preparing for major windstorms. In the middle of gale force winds is not a good time to be up on a ladder clearing gutters or struggling to get a generator going.

Before the Storm

Preparedness starts with proper maintenance. And, of course, a properly maintained roof is the first line of defense. A deluge of water or heavy wind will find every imperfection in a roofing system



and any defects will expose the building interior to water damage.

Gutters, downspouts and drains are just as important. Clogged gutters leave water with nowhere to go, causing rot to the roof and fascia and damage to the building foundation.

Maintaining sloping surfaces is the third leg of the stool. A sloping grade ensures that water does not collect around the building foundation during heavy downpours or in instances where the gutters and downspouts are overwhelmed. Slope needs to be checked periodically because ground settles over time. To direct storm water away from a building,

the slope should drop at least .5 inch per foot for 10 feet. Drains and swales can be used if space is limited.

Storm shutters and hurricane impact windows are excellent ways of protecting windows from damaging winds and flying debris.

To help, trees near buildings should be kept well-trimmed and cabled to keep branches from breaking and becoming projectiles.

According to The National Hurricane Center, the Atlantic hurricane season runs from June 1 to November 30. That makes June a good time to make sure necessary emergency equipment is on-hand and in good working order. This includes fire extinguishers, sump pumps, flashlights, generators, tarps, buckets and, if the area is prone to flooding, sandbags.

When Storm Clouds Gather

A major windstorm is any storm the National Weather Service designates as a hurricane, typhoon, tropical cyclone, tropical storm or tropical depression.

When a major storm is predicted to impact the area, the local weather service will issue a storm watch or warning. A watch means that conditions are favorable for a storm to occur. A warning means that the storm is imminent. A storm watch is a good time to make sure emergency equipment is still on-hand and in good working order.

All outdoor property should be secured or brought inside. Vehicles should be put in a garage, if possible. That will keep the outdoor property from being damaged or from damaging buildings or other property.

Sandbags should be placed in locations where floodwaters are known to accumulate.

Storm shutters should be closed where available. Where not

available, 5/8-inch plywood should be installed over windows starting with category 2 hurricanes. They have sustained winds of 96-110 mph. A standard window can sustain winds of about 77 mpg before shattering. Taping windows does not help.

Indoors, critical records and valuables should be moved away from windows and kept out of basements that are known to flood.

External Resources

[Federal Emergency Management Agency \(FEMA\) – Fact Sheet – Preparing for a Hurricane](#)

Updated 5/18/2020

Guidelines/Requirements

Before a Storm

1. Maintain roofs in good working order.
2. Clean gutters, downspouts and drains in the spring and fall.
3. Monitor slope annually. Grade surface away from buildings with a drop of at least .5 inch per foot for 10 feet. Use drains and swales if space is limited.
4. Keep large trees around buildings well-trimmed and cabled.
5. In June, make sure emergency equipment is on hand and is in good working order.

When a Storm Threatens

1. Confirm emergency equipment is on hand and in good working order.
2. Secure outdoor property or move it inside. Garage vehicles where possible.
3. Place sandbags to divert water away from areas of known flooding.
4. Close window shutters where available or install 5/8-inch plywood over windows for category 2 hurricanes or higher.
5. Move critical records and valuables away from windows and remove them from basements with known water issues.

Updated 5/18/2020 □



COOPERATIVE CONTRACTS DELIVER

THE BEST ROI FOR YOUR ROOFING & BUILDING ENVELOPE PROJECTS



OUR PENNSYLVANIA STORY.

Decades of Experience. Hundreds of Satisfied Customers. Thousands of Successful Roofing Projects throughout Pennsylvania.

“Knowing Tremco and the KPN cooperative purchasing process was recommended to us by a school district who loved it gave us peace of mind. From the pre-construction meeting through to the warranty, Tremco took care of everything. It was fantastic.”

JERRY GAUL, FLEET & FACILITIES DIRECTOR,
Township of Upper Dublin

More than 300 school districts in Pennsylvania have chosen to complete their roofing and building envelope projects with Tremco Roofing and our affiliated construction services company WTI. And they're telling their counterparts in local government why.

Benefits to procuring roofing and building envelope solutions through Pennsylvania's Keystone Purchasing Network (KPN) contract include:

- Contracts are pre-competted, publicly awarded and fully compliant with Pennsylvania procurement law
- Upfront pricing eliminates budget surprises and change orders
- Procurement is streamlined for fast project completion
- Installation is completed by qualified **local** contractors
- Turnkey solutions for comprehensive oversight and quality assurance
- Solutions for improving indoor air quality

Find out why so many Pennsylvania school districts and public entities have turned to Tremco.

Contact Jennifer Miller at jdmiller@tremcoinc.com or 412.225.6007 or visit YourRoofExperts.com.



Tremco Roofing and WTI are part of Tremco Construction Products Group



Tents and Canopies

BY KENNETH F. PORTER, CPCU, ARM, AIAF, PORTER & CURTIS, LLC

Overview

What goes up, must come down. And when it comes to tents, there are plenty of examples of when a large tent came crashing down, from the Wood Dale Music Festival and the Tulsa Oklahoma Oktoberfest to the New Hampshire Circus.

All of these collapses occurred because of high wind. But that's just one risk. There are many others like fire, lightning, excessive rainfall, snow accumulation and ice storms.

Temporary structures, are just that, and so when they come down, everyone wants it to happen the right way.

Codes

The International Fire Code (IFC) and International Building Codes (IBC) are the model fire and life safety standards for temporary structures.

Structures built of cloth, vinyl or non-rigid plastic ("membrane



structures") covering an area over 200 square feet for a period of 180 days or less are regulated by the IFC. Those built to stand for longer durations are regulated by the IBC.

Structures built of wood, masonry and rigid plastics ("nonmembrane structures"), regardless of the length of time they will be standing, are regulated by the IBC.

While most municipalities follow the international standards, some have adopted

different regulations. Therefore, it is advisable to consult with local authorities before erecting a temporary structure.

Membrane Structures

A tent is defined by international fire code as any temporary membrane structure with over 25 percent of its sides closed with sidewalls. A canopy is defined as any temporary membrane structure with 25 percent or less of its sides closed with sidewalls.

→

Tents with an area over 200 square feet are typically subject to permitting. Canopies with an area over 400 square feet are almost always subject to permitting.

However, laws vary. In New Hampshire, for example, a permit is not required unless the tent or canopy is over 400 square feet. In addition, an exemption applies to a tent or canopy of any size erected as an accessory structure that is owner-occupied.

While, in the case of New Jersey, tents and canopies are not regulated unless they exceed 900 square feet.

In addition, in some states, like Maryland and Pennsylvania, temporary structures are regulated by municipalities and counties, not by the state.

The occupant load for gatherings of 50 or more people is 15 square feet per person. So, a 6,000 square foot tent would have an occupant load of 400 people (6,000 / 15). Many states have formally reduced maximum occupancy limits to accommodate social distancing.

Tents with four sidewalls must have at least two exits spaced every 100 feet around the perimeter of the tent. Illuminated signs are typically required for tents that hold 50 or more occupants. Aisles must be provided to all exits. Exit openings must remain open unless covered by a fire-retardant curtain.

Fire code requires membranes to be constructed of flame resistant fabrics. Nevertheless, smoking is not permitted in a tent or under a canopy. “No smoking” signs must be posted accordingly.

A multipurpose fire extinguisher with a minimum rating of 2-A10BC is required. An additional fire extinguisher

Hazard	Exposure
Damaging winds	Collapse
Fire or explosion	Heat, flames, flying debris
Lightning	Electrocution
Hail or sleet	Collapse (excessive weight)
Excessive rainfall	Collapse (securement compromise)
Flash Flooding	Collapse (securement compromise)
Snow accumulation	Collapse (excessive weight)
Ice storm	Collapse (excessive weight)
Gas leak	Fumes
Earth movement	Collapse (securement compromise)

is required for 501-1,000 square feet and another one for each additional 2,000 square feet area. A fire extinguisher must be available within 75 feet from any point inside the tent. Additional requirements apply to cooking operations.

Generators and gas containers for propane powered heaters must be at least 5 feet away from the outside of the structure and protected by an approved enclosure. Propane pedestal heaters should never be used in a confined space or under a tent or canopy.

Tents and canopies should be inspected prior to each use.

Emergency Action Plan

All permitted temporary structures require an Emergency Action Plan (EAP). An EAP for a tent or canopy must address evacuation in the event of a weather event that might compromise the structure or securement or injure the occupants.

The plan should require evacuation in the event of the hazards in the chart above.

The evacuation could be to a permanent building, a vehicle or open area.

The EAP should also require inspection after an emergency situation.

Flooring

Temporary flooring under a tent or canopy is an important safety consideration.

Uneven ground, parking lot imperfections, and wet or slippery surface areas present trip fall hazards. Footwear is also a factor. High heels or

leather soles on wet grass can make matters even worse.

Flooring provides a dry and flat surface area.

In addition, temporary flooring provides a layer of insulation during cold weather and a place to cover electrical cords.

Crowd Manager

A trained crowd manager is typically required for public-assembly occupancies with 250 occupants with another manager for every additional 250 occupants.

Crowd managers know how to help patrons leave a building safely. They also make sure a building is safe each day.

Trained crowd managers comply with the International Fire Code, NFPA-101 Life Safety Code, NFPA-1 Fire Code and local ordinances that address safety in public-assembly occupancies.

Crowd managers learn how to:

1. Conduct pre-event inspections to identify problems with exits and egress paths and ensure required fire systems are operational.
2. Use a portable fire extinguisher.
3. Guide the crowd in an emergency.
4. Recognize when to use protection strategies,

including defend-in-place, evacuation or partial evacuation.

5. React to deteriorating weather conditions.
6. Identify problem attendees and how to respond once they're identified.
7. Coordinate with emergency responders.

Typically crowd managers must be retested every three years.

External Resources

[Tent Division of the Industrial Fabrics Association International – Safe Installation and Maintenance of Tents and Fabric Structures](#)

[The American Rental Association – Statement of Best Practices of Emergency Evacuation Planning for Tented Events](#)

[State of New Hampshire, Department of Safety, Division of Fire Safety – Tent Inspection Checklist](#)

Updated 2/1/2021

Guidelines/Requirements

1. Only use tents and canopies when absolutely necessary.
2. Secure necessary permits and comply with all applicable fire and building code requirements, including lower allowable occupancy limits.

3. Inspect tents and canopies prior to each use.
4. Use flooring when the surface area is uneven or likely to be slippery.
5. Outsource the installation and maintenance of temporary structures whenever practical and use the Agreement or Amendment from the Service Provider standard. In addition, shift responsibility for compliance with applicable fire and building codes to the service provider. □





Proactive *beats* reactive.

Taking steps to prevent labor and employment issues is a far better strategy than trying to mitigate them after the fact. We partner with municipalities in every corner of the Commonwealth, helping them address potential risks and create work environments where people and public service can thrive. We'd like to do the same for you.

CD **CAMPBELL DURRANT, P.C.**
PUBLIC SECTOR, LABOR AND EMPLOYMENT LAW

- Collective Bargaining & Interest Arbitration
- Personnel Counseling & Training
- Grievance Arbitration
- Labor Contract Administration
- Retirement Benefits
- EEO, PHRC & Civil Rights Litigation
- Civil Service, Police Tenure Act
- Local Agency Law Proceedings
- Appellate Representation

Pittsburgh

535 Smithfield Street, Suite 700
Pittsburgh, PA 15222
(412) 395-1280

Philadelphia

One Belmont Avenue, Suite 300
Bala Cynwyd, PA 19004
(610) 227-2591

cdblaw.com



Simplify Your Council Meetings



- Replace Hand and Paper Voting
- Instantly Pass/Fail Motions
- Anonymous or Public Feedback

Total 50		Yes 27	No 23	Article 12 Appropriation of bond premiums, revote prior borrowing and reserve portion of bon...
2/3 Majority needed		Results Display: Raw Absolute		Poll: Failed Polling Status: Closed 1/1 Pg # 1/2
Nick Arienti	Patty Carlino	John Coty	Vacancy Five	
Gordon Bailey	David Carrington	Nelson Daley	Dave Forrest	
Peg Biron	James Castagnaro	Kathleen Daoust	Marilyn Hansen	
Valerie Bluhm	Neil Clarke	Emmy Davis	Corey Heath	
Kathleen Bort	Josh Cohen	Kathleen Devarones	Alex Hedding	
Christopher Brittain	Alice Collins	Buck Donovan	Peter Hoffman	
Richard Brittain	Deldre Consolati	Matthew Fillio	Robert Jones	
William Brunell	David Consolati	Vacancy Five	Cornelia Kalisher	

EZ-VOTE and TownVOTE audience response keypads and software

meridiaars.com/towncouncil



Is it a Real Unemployment Claim or is it Fraud?

**BY DEBBIE GROSS, U-COMP MEMBER SERVICE REPRESENTATIVE
WITH REFERENCES FROM EQUIFAX WORKFORCE SOLUTIONS**

The pandemic has made it very easy for some individuals to submit fraudulent unemployment claims to the Pennsylvania Department of Labor and Industry (L&I). When this is done, fraudulent claims are usually submitted in large batches. It appears that no one is immune from this. The people who are affected range from entry level employees to CEOs and managers and it has become very costly for the state of Pennsylvania.

L&I is committed to investigating and blocking these unemployment scams. Many of these claims are going undetected by the victims. If you or an employee at your office have not filed for unemployment benefits and an unemployment document with their name and social security number arrives, please follow the instructions below:

1. [Here](#) is the fraud reporting form at the Pennsylvania Department of Labor and Industry website. Labor and Industry takes this seriously and investigates all claims.

2. [Click here](#) for the identity theft reporting form at the Labor and Industry website.
3. Please call the PA Fraud Hotline to report this at 1-800-692-7469.
4. File a police report with the local or State Police for your area. They investigate these cases.
5. Please ask the victim to check their credit report with the three reporting agencies: Equifax, Experian and Transunion. It is possible to place a freeze on your credit and accounts.

Also check www.identitytheft.gov for other procedures and safeguards against identity theft.

If claim benefits were paid, as the employer, please be sure to protest the benefit charges through the Department of Labor and Industry as quickly as possible. You will have a specific timeframe in which to do this.

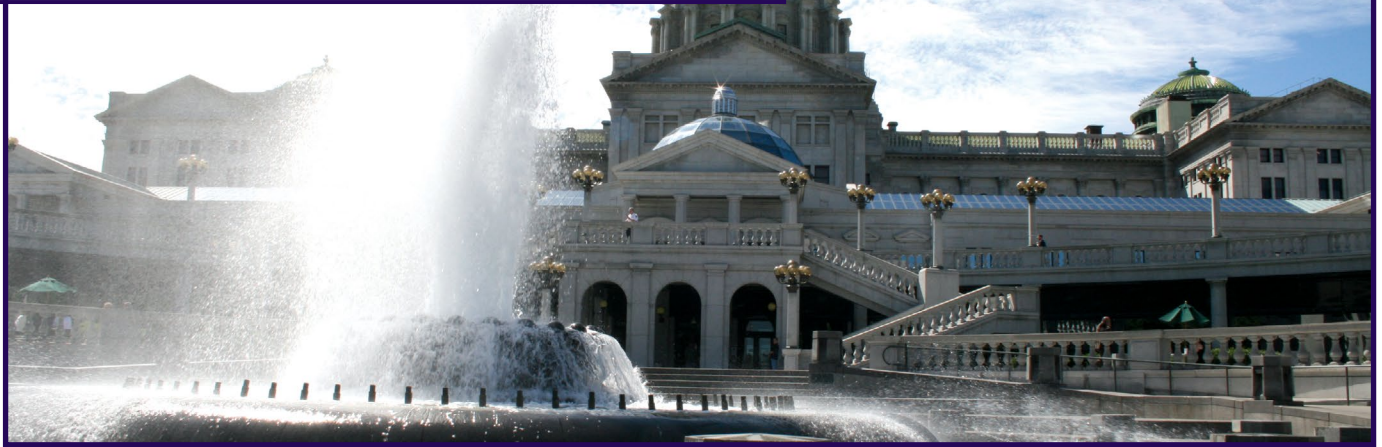
Please note that if you are a U-COMP member, you should contact Debbie Gross at 1-800-922-8063, ext. *254 or email her at dgross@pml.org to report this issue. U-COMP will work with you and report this issue to the Pennsylvania Department of Labor and Industry as well as assist in completing the paperwork that is required.

For more information on the U-COMP program or to receive a non-binding quote, please contact Debbie Gross at the contact information above. □



Member
The League's
Business Leaders Network

Legislative Status Report STATE



PREPARED BY AMY STURGES, LEAGUE DIRECTOR OF GOVERNMENTAL AFFAIRS – asturges@pml.org
KAITLIN ERRICKSON, GOVERNMENTAL AFFAIRS REPRESENTATIVE – kerrickson@pml.org

All legislation can be found on the General Assembly's website:
legis.state.pa.us

The General Assembly is in recess until September. As the spring session concluded with the enactment of the 2021-22 budget, many other pieces of legislation arrived on the Governor's desk. Those impacting local government are outlined below. Also included are a number of bills that are halfway through the process having passed their first chamber.

Recently Enacted Legislation

Act 30 of 2021 House Bill 178

Signed: June 30, 2020

Effective: Immediately

[Act 30](#) amends the Unemployment Compensation Law extending the number of days for a claimant, last employer or base-year employer to file an appeal of a determination from 15 days to 21 days. It applies prospectively to determinations and decisions made after notice has been published in the PA Bulletin

as specified in the act. It also allows for the electronic transmission of determinations. The act also extends to six years, the amount of time employers are required to retain employment records.

Act 33 of 2021 House Bill 264

Signed: June 30, 2020

Effective: August 29, 2021

[Act 33](#) amends the Real Estate Tax Sale Law requiring potential

bidders at tax sales to appear and register 10 days prior to each tax sale in which they wish to bid. Registration requires providing contact information and an affidavit stating the applicant: has no delinquent real estate taxes in the Commonwealth; has no municipal utility bills that are over one year outstanding in the Commonwealth; is not acting for a person barred from participating in the sale; and has not failed to

correct housing code violations or maintain property in a safe, legal and sanitary manner for three years preceding the application to bid.

Tax claim bureaus may establish registration fees and must provide the list of potential bidders to all municipalities within a county at least seven days prior to the scheduled sale. The Act bars repurchase by the property owner or immediate family members. It also expands the time frame a municipality can petition the Court of Common Pleas to prohibit the transfer of any deed for any property to 15 days before or after any sale.

Lastly, a tax claim bureau, with the consent of all taxing districts where the property is located, is authorized to establish a minimum purchase price for sales of property in repository.

Act 34 of 2021

House Bill 664

Signed: June 30, 2020

Effective: August 29, 2021

[Act 34](#) amends Title 53 (Municipalities Generally) and Title 68 (Real and Personal Property) prohibiting municipalities and homeowner's associations from requiring licenses from businesses operated by minors on an occasional basis. A municipality is restricted from requiring a business license from such a business in a residential zoned or un-zoned area. Municipalities do retain input into where such a business is located so as to not become a direct competitor with other licensed businesses.

A minor owned business is defined as an enterprise exclusively owned by one or more minors that receives no more than \$5,000 in proceeds a year. An exception is provided if the business is for a charitable purpose. Occasional basis is defined as business that operates no more than 84 days a year.

Act 36 of 2021

House Bill 765

Signed: June 30, 2020

Effective: Immediately

[Act 36](#) amends Title 75, Section 6109 prohibiting PennDOT from requiring a municipality to fully indemnify and hold the Commonwealth harmless as a condition of approval of a permit for a procession, special activity or assemblage on a state-designated highway. All of the following are met:

- ▶ the sponsor of the activity is not the municipality;
- ▶ the sponsor will fully indemnify the Commonwealth;
- ▶ the sponsor names PennDOT as an additional insured;
- ▶ the sponsor agrees to reimburse the Commonwealth for traffic control costs;
- ▶ the municipality approves of the special event; and
- ▶ the municipality agrees to provide detour signage or police controls if requested by PennDOT.

The Act also provides the Commonwealth with sovereign immunity from suit by event participants for personal injury or property damage arising from a special event. The definition of participants includes spectators, sponsors, municipal officials, police, fire police, media and others present at an event.

Act 50 of 2021

House Bill 1621

Signed: June 30, 2020

Effective: August 29, 2021

[Act 50](#) establishes the Small Wireless Facilities Deployment Act providing state standards for

deploying small cell infrastructure while preserving local authority over rights-of-way.

Under the Act, small cell wireless facilities are permitted use in all areas except underground districts and are reviewed by municipal staff in accordance with applicable codes. The definition of applicable includes local zoning, land use, streets and sidewalks, rights-of-way and permitting ordinances. Wireless providers and contractors have the right to either collocate small cell facilities on existing poles; replace an existing utility pole with added small cell infrastructure; or install a new utility pole with added small cell infrastructure.

In accordance with the 2018 FCC order, municipalities have the right to charge an annual right-to-way management fee not to exceed \$270 per small wireless facility. Municipalities have the ability to make their case for higher fees. This is accomplished by demonstrating that the higher fee is a reasonable approximation of the costs to manage the right-of-way and that the fee is reasonable and non-discriminatory.

Municipalities may also charge application fees, including \$500 for an application seeking approval of up to five collocated small cell facilities and \$100 per each additional collocated facility thereafter, and \$1000 for a new or replacement pole. Municipalities have 60 days to approve an application to collocate facilities and 90 days to approve an application to replace or install a new utility pole. A municipality may deny an application based on several reasons listed in the bill, including interference with the safe operation of traffic control and failure to comply with the applicable codes. Applicants are afforded the opportunity to correct an application deficiency.

The dimensions of the small cell facilities match those in the 2018

→

FCC Order. The size of the antenna is limited to 3 cubic feet in volume, accessory equipment may only be 28 cubic feet in volume and the maximum utility pole height would be 50 feet. Height waivers are subject to applicable codes. Municipalities may also develop objective guidelines for small wireless facilities regarding the minimization of aesthetic impact, as long as the guidelines are technically feasible and nondiscriminatory.

All structures and facilities must be installed and maintained so as not to obstruct nor hinder travel or public safety within the right-of-way or obstruct the legal use of the right-of-way by the municipality and utilities. Wireless providers are responsible for repairing any damage to the right-of-way and must return it to at least the condition that existed prior to any work being done. If the wireless provider fails to complete the repairs within a 30-day written notice from the municipality, the municipality may complete the repairs and charge the wireless provider reasonable fees for the repairs, as well as a \$500 penalty.

If the FCC adjusts its fee levels for small wireless facilities, a municipality may adjust any impacted rate or fee on a pro rata basis consistent with the FCC order. If the FCC's 2018 Small Cell Order is reversed or repealed by the U.S. Supreme Court, then the application and ROW use fees may increase by three percent annually.

Wireless providers are required to fully indemnify municipalities for any harm caused while installing, repairing or maintaining small wireless facilities or utility poles within the right-of-way.

Lastly, municipalities are required to update existing ordinances to comply with Act 50 within 60 days of the effective date of the Act.



Act 57 of 2021
Senate Bill 147
Signed: June 30, 2020
Effective: August 29, 2021

[Act 57](#) amends the Workers' Compensation Act requiring established safety committees to provide workers information regarding the risks associated with opioid use. It also requires the Department of Labor and Industry to develop and make resources available within 21 days for employers to comply.

Act 65 of 2021
Senate Bill 554
Signed: June 30, 2020
Effective: August 29, 2021

[Act 65](#) amends the Sunshine Act requiring the posting of agendas by agencies prior to public meetings wherein official business will be conducted.

An agency, if it has a public website, is required to post a meeting agenda, including items that may or may not be the subject of deliberation or action, at least 24 hours prior to the meeting. An agency is also required to post the agenda at the meeting location, at

its principal office and provide agenda handouts to meeting attendees. This requirement does not extend to agendas for conferences or working sessions, or for executive sessions.

An agency is not permitted to take action on an item that was not included in the posted agenda except under these circumstances: emergency business relating to a real or potential emergency involving a clear and present danger to life or property regardless of whether public notice was provided; business arising within 24 hours of the meeting that a resident or taxpayer brings to an agency's attention; business arising within 24 hours of the meeting that is *de minimus* and does not involve expenditure of funds or entering into a contract; and business arising during a meeting from a resident or taxpayer that is not on the agenda.

An agency is allowed to add an item to the agenda by a majority vote of the individuals present and voting, and may subsequently take action on the newly added agenda item. An agency is required to post the new agenda on its website and at its principal location no later than one business day following the meeting at which the agenda was changed.

Legislation of Interest

Affordable Housing Tax Exemption [House Bill 581 \(PN 1004\)](#),

introduced by Representative Jared Solomon, establishes the Affordable Housing Unit Tax Exemption Act. The bill would authorize local taxing authorities to abate property taxes in order to encourage the development of affordable housing. Eligible low-income taxpayers may be granted a tax-exemption; a 10-year tax exemption may be granted for new construction or improvements to affordable housing units in a designated deteriorated area; and a 2-year exemption may be granted for new construction or improvements to affordable housing units in other areas not designated as deteriorated. The legislation defines affordable housing unit.

Location: Passed House, June 25

Provisional Hiring [House Bill 764 \(PN 1634\)](#),

introduced by Representative Brett Miller, would amend Title 23 (Domestic Relations) allowing an employer to hire an employee on a provisional basis not to exceed 45 days while background checks and clearances are obtained. A child day-care center, group day-care home or family child-care home would be able to employ an applicant on a provisional basis for a single period not to exceed 45 days. Employees seeking provisional employment would have to meet standards specified in the bill.

Location: Passed House; Senate Health and Human Services, June 11

Preemption of Local Firearms Control

[House Bill 979 \(PN 1706\)](#), introduced by Representative Matthew Dowling, would amend Titles 18 (Crimes and Offenses) and Title 53 (Municipalities Generally) preempting local regulation of firearms. A municipality would be prohibited from imposing firearm regulations in a more restrictive manner than state law. In addition to this preemptive language, a third party individual or member organization adversely affected by such an ordinance would be able to seek relief. If the court rules in favor of the third party individual or member organization, the municipality would be responsible for paying their reasonable expenses, including but not limited to attorney fees, expert witness fees, court costs and compensation for loss of income.

Location: Passed House; Senate Judiciary Committee, June 9

County Assessment and Building Permit Information

[House Bill 1169 \(PN 1449\)](#), introduced by Representative Dan Moul, updates the Consolidated County Assessment Law's current requirement that building permit information be submitted to county assessment offices by municipalities, third-party agencies and the Department of Labor and Industry. The legislation would clarify that submitted building permit information will not be subject to Right-to-Know and will not result in criminal or civil liability. The bill provides remedies to county assessment offices for non-compliance including legal action to compel compliance. Additionally, counties

are authorized to enact ordinances requiring information on substantial property improvements to be submitted regardless of whether a building permit was required by a municipality. The value of substantial improvements is increased from \$2,500 to \$4,000.

Senate Bill 477 is identical.

*Location: SB 477: Passed Senate; House Local Government Committee, June 7
HB 1169: Passed House;
Senate Local Government Committee, May 28*

Home Rule and Act 47

[House Bill 1213 \(PN 1273\)](#), introduced by Representative Lee James, amends the Home Rule Charter and Optional Plans Law establishing an alternative process for Act 47 distressed communities to consider Home Rule. Under the bill, a home rule government study commission may be formed by resolution and composed of each member of the governing body, the mayor if not a member of the governing body, and the Act 47 coordinator. Once organized, the government study commission would have the same powers, duties and responsibilities as one formed through the traditional home rule process. Under the bill, an Act 47 study commission would have to consider the Act 47 recovery plan, as well as if the municipal services provided and the causes of municipal distress would be improved by operating under a new or amended home rule charter. The Act 47 coordinator would be required to hold a public hearing and provide testimony on the proposals after the study commission's recommendations are published.

→

Senate Bill 589 is identical.

*Location: SB 589: Senate Local Government Committee, May 5
HB 1213: Passed House;
Senate Local Government Committee,
May 28*

Borough Code Updates

[House Bill 1184 \(PN 1616\)](#), introduced by Representative Dan Moul, proposes updates to the Borough Code including the following:

- ▶ Chapter 2; Subchapter A – Incorporation – would authorize the incorporation of a borough from one or more municipalities, rather than one or more townships.
- ▶ Section 704 would clarify a borough mayor’s authorization to join mayors’ associations; to have dues not exceeding \$100 approved by council; and to be reimbursed for expenses of attending meetings.
- ▶ Section 801 would update eligibility for elected office.
- ▶ Chapter 25B would update borough authority regarding solid waste collection and disposition.
- ▶ Section 3301.2 would update borough requirements regarding the publication of ordinances prior to a vote.

Senate Bill 480 is identical except for the provisions regarding borough incorporation.

*Location: SB 480: Passed Senate; House Local Government Committee, June 24
HB 1184: Passed House;
Senate Local Government Committee,
May 28*

Municipalities Planning Code Bonds

[Senate Bill 208 \(PN 177\)](#), introduced by Senator DiSanto, amends the MPC to clarify that a municipality may not require a developer to post a bond greater than 110% of the costs of improvements. Furthermore, the bill clarifies that a municipality may retain 110% of the remaining costs of improvements prior to completion of the work.

Location: Passed Senate; House Local Government Committee, June 23

Local Use of Radar

[Senate Bill 419 \(PN 932\)](#), introduced by Senator Mario Scavello, amends Title 75 (Vehicles) providing for local use of radar. This bill is closely aligned with House Bill 606, the House version of local use of radar. The legislation allows any police officer to use radar or LIDAR after completing training provided by the Municipal Police Officers’ Education and Training Commission (MPOETC). Speed timing devices must be calibrated and tested at a minimum every 365 days. Municipalities must adopt ordinances authorizing the use of radar and/or LIDAR and post signage on main arteries. A 90-day written warning period must be provided to motorists. A person may not be convicted unless his speed is recorded at more than 10 miles per hour over the speed limit on a highway or more than 6 miles an hour in excess on an interstate highway; active work zones and school zones are excluded from this provision. Rate of speed may not be timed within 500 feet of a sign decreasing the speed limit with the exception of school zones, work zones and other reduced speed areas listed in the bill. Municipal revenue from speed enforcement citations may not exceed 10% of the total municipal budget. Excess revenue would be remitted to the PA Treasury.

Location: Passed Senate; House Transportation Committee, June 23

Public Contract Bid Non-Receipt Act

[Senate Bill 478 \(PN 503\)](#), introduced by Senator Cris Dush, would amend the Act 78 of 1979 providing a procedure for municipalities that do not receive bids for services after advertising. A municipality, municipal authority or transportation authority seeking a contract for services, and upon receiving zero bids the first time, may advertise for bids a second time. If no bids are received within 15 days of the second advertisement, the municipality and authority would be able to initiate negotiations for a contract for services with any provider not otherwise disqualified by law or policy of government. Prior to enacting the contract, the municipality or authority would be required to publicly announce the identity of the parties, proposed contract price and summary of other terms related to the contract to prove consistency with those previously advertised. The bill specifies that the misuse of the provisions of this act to evade advertising and bidding requirements would subject a member of the governing body of a municipality or authority who votes for the transaction to civil or criminal penalties, surcharges or other liabilities.

House Bill 1170 is identical.

*Location: SB 478: Passed Senate; House Local Government Committee, June 16
HB 1170: House Rules Committee, June 16*

Ethics Standards for Act 47 Coordinators

[Senate Bill 479 \(PN 504\)](#), introduced by Senator Scott Hutchinson, would amend the Municipalities Financial Recovery Act bringing the appointed coordinator in compliance with existing ethical standards. Under the bill, a coordinator may not engage in conduct prohibited by the Ethics Act and the State Adverse Interests Act, which

requires individuals to avoid conflict of interests relating to ethics standards and financial disclosures. The bill would also prohibit both coordinators and receivers from receiving any compensation, fee or commission from a financially distressed municipality or any sale or lease of property or other financial transaction involving the financially distressed municipality or an authority directly or indirectly controlled by the municipality. A violation would constitute grounds for termination of the coordinator's contract with DCED.

Further, this bill would clarify that it is not a conflict of interest for a person to be appointed as a coordinator if they previously contracted with a municipality as a coordinator, receiver, financial consultant, legal counsel or through a contract under the early intervention program.

House Bill 1171 is identical.

*Location: SB 479: Passed Senate; House Local Government Committee, June 8
HB 1171: First Consideration in the House, May 5*

Second Class Township Code Updates

[Senate Bill 673 \(PN 742\)](#), introduced by Senator Cris Dush, amends the Second Class Township Code. A new subsection is added to Section 907 (Surcharge by Auditors) providing that elected and appointed officials who act in good faith on the opinion of the township solicitor shall not be surcharged. Section 1301 regarding township managers is amended authorizing the appointment of a partnership, limited partnership, association or professional corporation to the office.

House Bill 1351 is identical.

*Location: SB 673: Senate Appropriations Committee, June 14
HB 1351: House Rules Committee, June 16*

Borough Code Updates

[Senate Bill 674 \(PN 745\)](#), introduced by Senator Tim Kearney, amends the Borough Code in several ways. A new subsection is added to Section 1059.3 (Surcharge by Auditors) providing that elected and appointed officials who act in good faith on the opinion of the borough solicitor shall not be surcharged. Section 1141 regarding borough managers is amended authorizing the appointment of a partnership, limited partnership, association or professional corporation to the office. Section 1174 provides that the civil service commission shall meet and organize within 30 days of the first Monday of each even-numbered year, rather than on the first Monday in even-numbered years. Section 130 removes the *30-day* requirement to make a proposed budget available for inspection prior to the adoption of the budget.

House Bill 1350 is identical

*Location: SB 674: Passed Senate; House Local Government Committee, June 28
HB 1350: House Rules Committee, June 16*

Third Class City Code Update

[Senate Bill 675 \(PN 746\)](#), introduced by Senator Judith Schwank, amends the Code authorizing city council to appoint a partnership, limited partnership, association or professional corporation as city administrator. Any employees of an appointed partnership, limited partnership, association or professional corporation who work directly with the city are prohibited from holding any elected office. Further, the bill clarifies that only an individual serving as city administrator may also serve as chief fiscal officer. And, only an individual serving as

administrator would be subject to a residency requirement.

House Bill 1367 is identical.

*Location: SB 675: Passed Senate; House Local Government Committee, June 24
HB 1367: House Rules Committee, June 16*

Home Rule Government Study Commission

[Senate Bill 524 \(PN 599\)](#), introduced by Senator Gene Yaw, would amend Title 53 (Municipalities Generally) regarding Home Rule ballot questions. Currently, the law permits three differently worded ballot questions regarding the government study commission to appear on a ballot and be defeated in three consecutive elections before prohibiting further proceedings. This bill would limit the three ballot questions to one in a four-year period. Additionally, the ballot questions would no longer be able to appear on primary election ballots.

Location: Passed Senate; House Local Government Committee, June 15 □



Legislative Status Report FEDERAL



How Cities Can Ensure Equity For Siting Electric Vehicle Infrastructure

**BY NICK KASZA, PROGRAM MANAGER
SUSTAINABLE CITIES INSTITUTE AT THE NATIONAL LEAGUE OF CITIES**

Just over one hundred years after the internal combustion engine began to revolutionize transportation in the United States, the automobile industry is undergoing an evolution to a cleaner, more electric future. Electric vehicle sales are surging and auto manufacturers like [General Motors have pledged](#) to phase out internal combustion engines and focus production on electric vehicles. With more EVs on our streets and highways, there is an increased demand for charging infrastructure so they can fuel up on electrons. Recognizing the need to develop a modern and decarbonized transportation sector, the White House's American Jobs Plan includes funding for grant and incentive programs aimed to help state and local governments, as well as the private sector, build [500,000 electric vehicle chargers by 2030](#). ACEEE found in its [review of](#)



[state transportation electrification policies](#) that some states are also increasingly investing in charging infrastructure, including equitable access to charging, and many state utility commissions are enlisting the utilities they regulate in the process. Cities are key stakeholders in the siting and installation of local EV charging networks, and they can help ensure the buildout is done in an intelligent and equitable manner.

A new white paper from the American Council for an Energy-Efficient Economy (ACEEE) brings into focus the importance of [Siting Electric Vehicle Supply Equipment \(EVSE\) with Equity in Mind](#). This paper examines the role of utilities and their actions to date in equitable EVSE siting, which is a crucial component in equitable transportation electrification.

NLC's Nick Kasza held a virtual discussion with ACEEE's Peter Huether about the white paper and the takeaways for city leaders regarding electric vehicle charging infrastructure siting. Some of the responses have been edited for clarity.

Nick Kasza: Before we dive into the report findings, can you provide some background on EV charging infrastructure? What is electric vehicle supply equipment and where is it found within a city?

Peter Huether: Electric vehicle supply equipment (EVSE) encompasses all the infrastructure required to charge a plug-in vehicle from the electricity grid's distribution wires to the meter to the charger itself. The charger that a driver sees is only the end of this chain, which all need upgrading to support widespread transportation electrification. Public chargers are generally either Level 2 (L2)

or fast charging (DCFC) with the former charging a vehicle in 6-8 hours while DCFC can charge a vehicle 80 percent in 30 minutes or less. DCFC is common along heavily trafficked routes such as interstates, downtown cores, and busy shopping centers but is significantly more expensive to install compared to L2, which is more common in residential, workplace, and some commercial parking facilities. DCFC can also support charging for those who cannot do so at home because they do not have access to consistent and charging-enabled off-street parking, including many apartment dwellers and renters more generally.

Low- and moderate-income (LMI) drivers have lower access to charging-enabled off-street parking, so expanding public charging where they live is crucial for equity. Equitable charging can also include charging for transit buses, which are disproportionately used by low-income Americans, and charging for large commercial vehicles, which disproportionately contribute to air pollution that harms low-income communities and communities of color.

Nick: That's very helpful background information. Let's turn to the report, what were the key takeaways?

Peter: Overall, there has been progress in some states but most states and utilities are not doing enough to ensure that electric vehicle charging infrastructure investments are reaching all communities. Utilities nationwide have pledged \$2.4 billion in EVSE investment, with \$646 million specifically earmarked for LMI communities and communities of color. However, the vast majority of the investment has been in just

two states, California and New York. Additionally, at the time of our research, only six states required their investor-owned utilities to include considerations for LMI communities or communities of color in their investments or plans. We also emphasize the importance of looking beyond just charging for personal vehicles, including for buses and trucks, and the importance of good and early community engagement by utilities. To create equitable EV programs, utilities will need to undertake comprehensive community engagement to identify community-specific opportunities and gaps for transportation electrification. The best community engagement centers community needs throughout the planning and investment process and in doing so, builds long-term trust.

Nick: How can these takeaways translate to what cities can do to help ensure equitable EVSE siting?

Peter: Cities have a key role to play to ensure equitable EVSE siting given their close relationship to their communities, jurisdiction over siting and land use decisions, and authority over transit. Through their own community engagement, cities are likely to have a better sense of where EV investments may be most useful for underserved communities or may have insights from their own equitable transportation planning processes about key passenger and freight mobility needs. Cities also often have some authority over transit and transit agencies, which need to cooperate closely with utilities when electrifying their bus fleets. Cities can facilitate this cooperation as they can also facilitate the siting of EVSE throughout their communities with easier zoning, permitting,

continued on [page 45](#) →



Dependable - Full Service - Secure

Offering flexibility of plan design and direct access to the administrator, PMRS provides professional yet personal assistance to help Pennsylvania municipalities create a stable pension plan.

We place great emphasis on quality of investments, consistency of return, and adding value to the municipal plan assets while placing them at minimum risk.

Visit us on the web at: www.pmrs.state.pa.us
Toll Free: 1-800-622-7968 or 717-787-2065

Our Vision: To be Pennsylvania Local Governments' Pension Administrator of Choice

PENNSYLVANIA MUNICIPAL HEALTH INSURANCE COOPERATIVE

PMHIC

Using the Power of Group Purchasing to Lower Your Health Benefit Costs

To learn more about PMHIC, please contact:
The Benecon Group
888.400.4647 | PMHIC@benecon.com | www.PMHIC.com

and departmental coordination. In particular, cities have control over their right of ways, including on-street parking spots, and can also decide whether areas are allowed to have chargers installed. Cities can also update their building codes to ensure that a portion of parking in new apartment buildings can be easily outfitted with chargers in the future. Given that apartment buildings disproportionately house low-income families, ensuring they can serve their charging needs is a core equity issue.

Nick: How can city leaders facilitate meaningful community engagement, particularly with underserved communities that might be overlooked for EVSE siting?

Peter: Cities can be partners with utilities in the latter's community engagement efforts to ensure the engagement is meaningful and informs investment decisions. This can involve sharing best practices that the city has learned over time, providing public facilities for meetings, and connecting utilities with relevant community organizations. Cities should also stress to utilities that they provide support, including financial compensation and translation services, to community members to ensure that there is broad participation in the community engagement process. It is important that overburdened communities are listened to and their needs are included in EVSE siting plans as much as possible to ensure the EVSE has the biggest impact possible and that these communities benefit.

Nick: Do you have any good city examples?

Peter: Our white paper highlights the example of Seattle City

Light, the municipally owned utility primarily serving Seattle, Washington, and its ongoing efforts to engage with communities as part of its broader transportation electrification plans. City Light partnered with the city's Department of Neighborhoods during the engagement process and met with more than 50 stakeholder groups, including 25 environmental justice community leaders. City Light also relied on the City of Seattle's Equity and Environment Agenda, which identified communities to prioritize engagement and investment. This process then led to the utility prioritizing investments in EVSE serving apartment dwellers, the electrification of city buses, ride-hailing vehicles, and commercial fleets in environmental justice communities. The utility also made sure to meet with organizations when it was convenient for them, solicited input on how they wanted to be involved, budgeted for childcare, food, and interpretations services, and empowered community voices in decision-making. These are all principles that can work for cities as much as they can work for utilities. For more information on city efforts to encourage EV adoption, see ACEEE's [City Clean Energy Scorecard](#) report.

[Siting Electric Vehicle Supply Equipment \(EVSE\) with Equity in Mind](#) is authored by Peter Huether from the American Council for an Energy-Efficient Economy.

About the Author: Nick Kasza is a Program Manager with the Sustainable Cities Institute at the National League of Cities. □



Equalization Tank
Baldwin Borough

Professional Services

- Municipal
 - GIS / Mapping / Asset Management
 - Grants Procurement and Administration
 - Green Infrastructure
 - Landscape Architecture
 - Parks and Recreation
 - Planning
 - Roadway and Pavement
 - Site Design
 - Stormwater / MS4
 - Surveying
 - Water
 - Wastewater
 - Utilities



Community Park
Collier Township



Scott Township Pool

846 Fourth Avenue
Coraopolis, PA (Headquarters)
Greensburg, PA (Branch Office)
Albion, PA (Branch Office)
Dublin, OH (Branch Office)
Beaver County, PA (Branch Office)
412-264-4400 | www.lsse.com

Managing Principals:

Kevin A. Brett, P.E.; Ned Mitrovich, P.E.;
Jason E. Stanton, P.E.

Public Finance

“We’re Glad You Asked”

The PLGIT Board of Trustees answers your questions about the Trust

BY JOHN MOLLOY, CFA, PLGIT SENIOR MANAGER
JUNE 2021

Every year, the Pennsylvania Local Government Trust (“PLGIT” or the “Trust”) receives questions from Investors about the work of the Trust, its plans and goals for the coming years, and other topics and concerns. In this article, we’ve turned a few of those questions over to members of the PLGIT’s Board of Trustees, including Board President Dennis Hameister, Supervisor of Harris Township in Centre County; Board Vice President Dr. G. Brian Toth, Superintendent of St. Mary’s Area School District in Elk County; and Board Secretary/Treasurer Sandra Bartosiewicz, Finance and Budget Director for the Wyoming Valley Sanitary Authority in Luzerne County; and Kathleen DePuy, Council Member of the Borough of Whitehall. We asked them to offer their point of view on the work of the Trust, as well as the Trust’s perspective following a year of COVID-19’s impact.

Q & A *with the PLGIT Board*

Q: While there are still a lot of restrictions associated with COVID-19, vaccinations are ramping up very rapidly, and there are some “green shoots” of reopenings appearing across the Commonwealth. How does this current COVID-19 climate affect the way the PLGIT Board functions?

PLGIT BOARD (PB): Gathering PLGIT Board members from across the state has always been challenging with competing demands and travel times, let alone COVID-19 restrictions this

past year. The Board is made up of representatives from around the state, some elected and some employees of public entities, and all of whom are volunteers.

The full board meets four times a year, and each board member sits on at least two Board committees. These committees meet regularly in between full Board meetings to allow them time to work through reviews of PLGIT’s programs and services and contracts between PLGIT and its service providers, or develop new initiatives.

The PLGIT Board of Trustees has held all of its meetings virtually since March 2020, including its annual meeting of shareholders and reorganizational meeting in May of this year.

While the Board and its committees certainly enjoy getting together and meeting face-to-face, we’re discovering a small silver lining in that virtual meetings make it easier for Board members located throughout Pennsylvania to collaborate on PLGIT business.

Q: Last year, the PLGIT Board consolidated a number of PLGIT's investment options. What has PLGIT observed, one year after the consolidation?

PB: PLGIT always works to keep pace with our investors' needs, and a large part of that is the process of tailoring programs and services to help reduce costs and seek improved returns. The recent consolidated investment option – PLGIT/Reserve-Class – is an example of this type of tailoring.

PLGIT/Reserve Class combines the best elements of the PLGIT/PLUS-Class, I-Class, and PLGIT/ARM investment options. The goals of this consolidation were to 1) simplify investment options and reduce redundancy among investment choices, and 2) promote efficient management of PLGIT portfolios with economies of scale and reduction of fees.

We created PLGIT/Reserve-Class at the beginning of August 2020 and have generally received positive feedback from investors. With there being so much going on last year in terms of changing how local government offices and schools operated, many investors were not really focused on this investment lineup change. For those who had questions, we were able to show the tangible benefits of consolidating investments, like receiving interest income monthly instead of quarterly as before. Transferring funds between bond proceeds accounts and other PLGIT accounts or external accounts were simplified as well.

As always, if you have any questions about this new program, contact your PLGIT representative.

Q: How do you see the Trust's legacy and work for its investors over the lifetime of the organization, and what is the Board's vision as the Trust moves ahead?

PB: This year we are celebrating PLGIT's 40th anniversary of serving local governments, municipal authorities and school entities in the Commonwealth. There are a lot of things to say about the great work PLGIT has done in those four decades – and about the way ahead into the next 40 years. Here are just a few points:

A legacy of opportunities

– **and growth:** When PLGIT was founded, Pennsylvania's local governments and schools didn't have many options for investing and managing available cash. Municipalities were forced to contend with investment products that didn't really suit their needs, high fees and service levels that varied based on the size of the investment balance they could maintain.

PLGIT's founders led the way – not just in Pennsylvania, but as an example for many other states across the U.S. – by showing how local governments could take control of their finances, pooling funds from multiple municipalities and investing them to meet the specific requirements and needs of members.

As a result, PLGIT has grown from two initial investors at its founding

About the Board

The PLGIT Board of Trustees meets quarterly in public meetings to review, discuss and take action on the policies of the Trust. The 11-member, all-volunteer Board is made up of local government and school officials that have been nominated each year by PLGIT's seven sponsoring associations, and are, in turn voted for and elected by PLGIT Investors. Those associations include:

- ▶ *County Commissioners Association of Pennsylvania (CCAP)*
- ▶ *Pennsylvania Association of School Administrators (PASA)*
- ▶ *Pennsylvania Municipal Authorities Association (PMAA)*
- ▶ *Pennsylvania Municipal League (PML)*
- ▶ *Pennsylvania State Association of Boroughs (PSAB)*
- ▶ *Pennsylvania State Association of Township Commissioners (PSATC)*
- ▶ *Pennsylvania State Association of Township Supervisors (PSATS)*

in 1981, to more than 3,000 today, and currently manages some \$7 billion in assets, as of December 31, 2020.

Working together: PLGIT and its Board are an excellent example of how local governments and school districts from a range of locations across Pennsylvania, each with different needs and responsibilities to its constituents, can work together to everyone's mutual benefit.

Delivering greater efficiencies: PLGIT's evolving technology has changed the way local governments

→

manage their time, money and personnel. Over the last 40 years, PLGIT has introduced its Easy Online Network (EON), the PLGIT P-Card program, use of ACHs and other digital services. These improvements and programs continue to help: 1) reduce the time spent carrying out daily operations; 2) reduce errors (and re-work); 3) improve security, and streamline overall financial operations.

Safety first: A local government's financial management is unique in that its focus must be on safety, liquidity and yield – in that order. While there may be other investment strategies that set their sights on yield first, PLGIT has made every effort to set its policies and products with attention to:

- ▶ Maintaining a stable net asset value and seeking protection of a local government's principal investment;
- ▶ Advising local governments and schools toward having funds available for planned projects, emergencies and other needs; and
- ▶ Seeking growth in investment only after securing the above two elements.

Q: What are some of the challenges you see for Pennsylvania local government investors in 2021 and beyond?

PB: The federal government's response to the pandemic and dramatic volatility in the stock market last year, including actions by the Federal Reserve (the Fed),

will continue to impact PLGIT's yields and interest income for public investors in 2021 and likely beyond. The Fed slashed its target overnight rate twice last year to nearly zero in an attempt to boost liquidity and make it easier for market participants to borrow funds. Most short-term bond rates follow the Fed Funds target rate, which is why we see investment rates at low levels not seen since the Great Recession. Though PLGIT's rates are challenged, our primary goals of safety of principal and easy, password-protected access to investor funds continue regardless of rates.

One thing we can say is that local governments have risen to the challenge of operating efficiently and serving the public's needs in a challenging time. They are often asked to do more with less, and this past year has been no different. The

effects of a pandemic are daunting, but they are one more storm that local governments will weather.

If you have a question, visit our website at www.plgit.com or call your PLGIT marketing representative at 800-572-1472.

John Molloy, CFA, is the Senior Manager of PLGIT, working from its Harrisburg office. He can be reached at molloyj@pfm.com. □

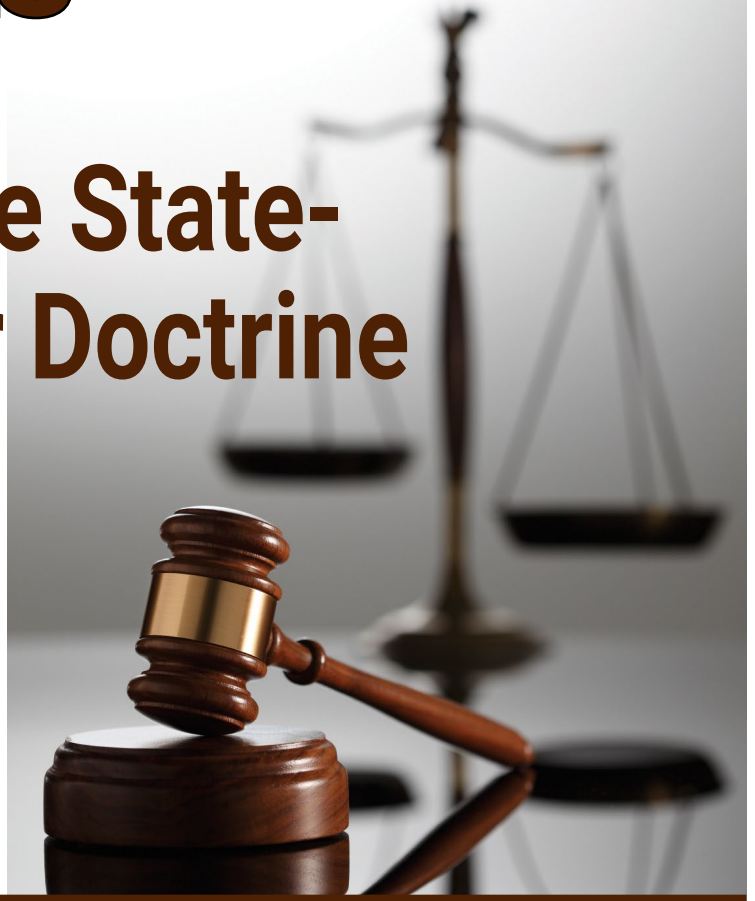


This information is for institutional investor use only, not for further distribution to retail investors, and does not represent an offer to sell or a solicitation of an offer to buy or sell any fund or other security. Investors should consider the investment objectives, risks, charges and expenses before investing in any of the Trust's portfolios. This and other information about the Trust's portfolios is available in the current Information Statement, which should be read carefully before investing. A copy of the Information Statement may be obtained by calling 1-800-572-1472 or is available on the Trust's website at www.plgit.com. While the PLGIT and PLGIT/PRIME portfolios seek to maintain a stable net asset value of \$1.00 per share and the PLGIT/TERM portfolio seeks to achieve a net asset value of \$1.00 per share at its stated maturity, it is possible to lose money investing in the Trust. An investment in the Trust is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. Shares of the Trust's portfolios are distributed by **PFM Fund Distributors, Inc.**, member Financial Industry Regulatory Authority (FINRA) (www.finra.org) and Securities Investor Protection Corporation (SIPC) (www.sipc.org). PFM Fund Distributors, Inc. is a wholly owned subsidiary of PFM Asset Management LLC. □

LEGAL NOTES

Is it Time for the State-Created Danger Doctrine to be Abolished

BY MICHAEL A. PALOMBO AND
JONATHAN F. WHALEN
CAMPBELL DURRANT, P.C.



The Constitution guarantees certain rights that are free from infringement by government. Accordingly, the Constitution is generally characterized as placing “negative duties” upon the government limiting what the government can do and setting boundaries that government action cannot cross. The Constitution does not generally impose any “affirmative” duties and does not “require” the government, whether on the federal, state or local level, to take action to ensure that these rights are not violated by some other actor.

There are limited exceptions to this rule, however, such as when the government confines someone in prison and thereby assumes the responsibility of protecting that individual’s constitutional rights. Another exception to this rule takes the form of the so-called “state-created danger” doctrine, applicable to local governments in Pennsylvania since the Third Circuit’s adoption of it in the 1996 case of *Kneipp v. Tedder*. A claim of harm suffered as the result of a state created danger is a claimed violation of substantive due process by a government actor or government actors, and

the doctrine derives from dicta contained in *DeShaney v. Winnebago County*, a United States Supreme Court case decided in 1989. In that case, while the Supreme Court ultimately ruled that an affirmative duty to secure constitutional rights exists only when the government has placed someone in its custody, it also implied that if the government “creates” danger which harms an individual or does something that renders an individual vulnerable to such danger, a corresponding duty to protect that individual may arise.

→

In the years since *DeShaney*, the Supreme Court has never formally recognized or applied this “state-created danger” theory. But the Circuit Courts, including the Third Circuit, have created and recognized such a claim. In *Kneipp v. Tedder*, the plaintiff and her husband were walking home from a bar and were severely intoxicated when they were stopped by the police. Upon questioning the couple, the police elected to separate them and send them home separately. Despite being quite close to her home, the plaintiff later fell into a ditch and suffered brain damage from hypothermia and anoxia. The Third Circuit ruled that the plaintiff’s constitutional rights were violated because the harm to the plaintiff was foreseeable, the police officer in question acted in “willful disregard” for the plaintiff’s safety and had exercised control over the plaintiff, and finally because the conduct of the police rendered the plaintiff more vulnerable to harm. Generally, these claims would be based on negligence or alleged intentional torts, under the state-created danger doctrine, a “misuse” of state authority that creates or increases the risk of danger to a plaintiff is not simply a tort claim, which may be precluded or limited by governmental immunity, but can instead be filed as a substantive violation of the Fourteenth Amendment’s Due Process clause.

Since *Kneipp v. Tedder*, “state-created danger” claims have been a constant source of litigation against local governments in a variety of contexts, from police interactions to emergency services, to public schools, and even to high school

sports. Additionally, the elements of a “state-created danger” claim have become more refined and fully established. Specifically, plaintiffs must demonstrate that 1) the harm ultimately caused was foreseeable and fairly direct; 2) a state actor acted with a degree of culpability that shocks the conscience; 3) a relationship between the state and the plaintiff existed such that the plaintiff was a foreseeable victim of the defendant’s acts; and 4) a state actor affirmatively used his or her authority in a way that created a danger to the citizen or that rendered the citizen more vulnerable to danger than had the state not acted at all. Importantly, this fourth element requires “an affirmative act” and a failure to act will not satisfy this standard. Stated another way, the claim does not exist for a plaintiff that alleges the government actor should have but did not intervene in some way. It exists only when that intervention creates a danger and harm follows. In *Kneipp*, that action was the officer’s separation of the plaintiff from her husband. But determining whether an affirmative act took place has proven to be a thorny question, and the Third Circuit has had difficulty “drawing a line” between action and inaction in these cases. No less confusing is whether the affirmative act “shocks the conscience,” and the Third Circuit has recognized that this standard “offers little light.” In short, the determination depends on the facts and circumstances of each case and on how much time for deliberation a government official possessed before performing the act. For example, if an official is given enough time to make an “unhurried judgment,” the Third

Circuit has stated that a showing of “deliberate indifference” will suffice to “shock the conscience,” but in “hyper-pressurized” situations, only “intentional harm” will support the theory. This has caused a tremendous amount of litigation and because the cases are so fact intensive, have resulted in extraordinary expense to governmental entities and their insurers.

The facts of these cases tend to be tragic. But as the Third Circuit has recognized, the doctrine itself does little or nothing to guide municipalities and public employees in avoiding these tragic outcomes, and instead operates generally to transform tort claims into constitutional violations, on grounds that have a questionable basis in the Constitution and under standards that are, at best, hazy and ill-defined.

Indeed, in recent years, the constitutional validity of the doctrine has been increasingly called into question. In a 2017 concurring opinion in the case of *Kedra v. Schroeter*, Judge Fisher lamented how the Third Circuit had “gradually lowered the bar for bringing a state-created danger claim” given that the Supreme Court has not even recognized or applied the doctrine. Judge Fisher further stated that it was “troubling” how far the Third Circuit had “expanded substantive due process...by fashioning a state-created danger theory” and including by “stating that there could be liability in non-custodial situations for gross negligence.” Judge Fisher went on to question whether the state-created danger theory was consistent with the

Constitution's Due Process Clause and reiterated skepticism of the basis for any such claim because, as noted, it goes far beyond anything the Supreme Court has recognized to date.

Just last year, the Third Circuit cast further doubt on the continued viability of the doctrine in its majority opinion as well as two concurrences in the case of *Johnson v. City of Philadelphia*. In that case, the Third Circuit noted that "the state-created danger doctrine traces to a few words" from *DeShaney*, and that the Circuit Courts had undertaken "a considerable expansion of the law" based on those "few words." The Third Circuit, in its majority opinion, explained that "the doctrine has not escaped criticism" precisely because "it does not stem from the text of the Constitution or any other positive law," and warned that the doctrine "consequently vests open-ended lawmaking power in the judiciary." Further still, the doctrine "offers little help to public employees seeking to better discharge their duties" because it offers none of the predictability the law otherwise generally favors, providing

little guidance on what a public employee should or should not do in a given circumstance.

The Third Circuit still reluctantly applied the doctrine in *Johnson* because it was "bound to faithfully apply" its precedent. But in two concurrences, Judge Matey and Judge Porter both called for the Third Circuit to "revisit the state-created danger doctrine" on the grounds that it has no basis in the Constitution and because it "subjects" public employees to "lawsuits for alleged constitutional violations" while simultaneously providing them with no standard by which they can avoid such lawsuits. Like Judge Fisher, Judge Porter expressed concern with how far the Third Circuit had "lowered the bar" for bringing state-created danger claims, and additionally echoed Judge Fisher's concern that the doctrine represented a "troubling" expansion of "substantive due process." Thus, Judge Porter advocated for at least clarifying certain aspects of the doctrine, "assuming we continue to recognize the state-created danger doctrine at all."

A growing chorus of jurists in the Third Circuit appear willing to

revisit this doctrine, and may even be signaling a desire to abrogate it entirely, on the grounds that it has no basis in the Constitution or in United States Supreme Court jurisprudence. Noting that it does not actually aid the functioning of governments and public employees or help them avoid tragic outcomes, despite its purported aims, a number of sitting judges have openly questioned the wisdom of its continued application despite applying it dutifully under the concept of precedent. As with most cases, the right set of facts may prove important in finally putting this theory of constitutional liability to rest. Accordingly, if your municipality is currently facing a "state-created danger claim," please let us know as the Pennsylvania Municipal League is monitoring the issue closely to determine whether it can assist in lending its support as amicus to a member facing such a claim. □



We must invest in infrastructure development and rebuilding communities to create jobs.

- Carol Moseley Braun

LEGAL NOTES

Pennsylvania Supreme Court Holds That Documents Exchanged by Consultants With Municipalities and State Agencies Do Not Fall Within the Deliberative Process Privilege

BY WILLIAM W. WARREN, JR., ESQ.
SAUL EWING ARNSTEIN & LEHR LLP



The Pennsylvania Supreme Court's April 29, 2021 decision in a Right-to-Know Law (the "RTKL") case has broad ramifications in matters where a state agency or municipality has contracted with a private consultant and seeks to protect records the parties have exchanged while the governmental agency deliberates. *Chester Water Authority v. Pennsylvania Department of Community and Economic Development*, Nos. 44 & 45 EAP 2019, ___ Pa. ___, 249 A.3d 1106, 2021 WL 1740596. The majority opinion was authored by Justice Saylor,¹ joined by Justices Todd, Donohue and Mundy. Justice Dougherty concurred, and Justice Wecht and Chief Justice Baer dissented.

The City of Chester is in Act 47 financial recovery, and the Department of Community and Economic Development (DCED) had engaged consultants² to assist it in performing the agency's Act 47 duties. During the furnishing of services, the consultants exchanged records with or provided records to DCED. 2021 WL 1740596 *1. The Chester Water Authority, concerned with the potential for privatization, had sought these records under the RTKL from DCED. The state agency declined to produce certain records, asserting the "deliberative process privilege." Both the Office of Open Records and, on appeal, the Commonwealth Court had sustained the objections. *Id.* *3. The Pennsylvania Supreme Court

reversed. The decision has applicability to municipalities and municipal authorities, and not just state agencies.

At issue was the Right-to-Know Law, Act of Feb. 14, 2008, P.L. 6, No. 3 (as amended 65 P.S. §§67.101-67.3104) (the "RTKL"), and specifically the exemption from disclosure for records reflecting "internal, predecisional deliberations," as set forth in 65 P.S. §67.708(b)(10)(i)(A), and as frequently referred to as the "deliberative process privilege." This provision provides an exemption for a record that reflects:

(A) [t]he internal, predecisional deliberations of an agency, its

members, employees or officials or predecisional deliberations between agency members, employees or officials and members, employees or officials of another agency, including predecisional deliberations relating to a budget recommendation, legislative proposal, legislative amendment, contemplated or proposed policy or course of action or any research, memos or other documents used in the predecisional deliberations.

65 P.S. §67.708(b)(10)(i)(A)(emphasis added).

Although the decision directly involved the state agency DCED, the term, “agency” in the RTKL includes “a local agency,” and the term, “local agency” is broadly defined to include a political subdivision, any local, intergovernmental, regional or municipal agency, authority, council, board, commission or similar governmental entity. There is no reason to believe that the *Chester Water* decision does not apply with equal force to Pennsylvania’s municipal government.

The private consultants apparently had prepared reports, memos and similar materials for DCED, which the Supreme Court categorized as “records exchanged between a Commonwealth agency and private consultants.” 2021 WL 1740596 *1. Justice Saylor, writing for the majority, observed that the contractor and its subcontractors as private consultants are “plainly not” DCED’s employees or officials. *Id.* *5.

The Supreme Court held that the statutory deliberative-process exception does not extend to records exchanged between a Commonwealth agency and private consultants, concluding that the delib-

erative process privilege applies only to records that reflect communications between and among an agency’s members, employees and officials, and that therefore can be characterized as “internal” in a narrow and strict sense. *Id.* *6.³

There are several caveats to the Court’s decision. Documents of the consultants never provided to the agency were not an issue. Such records could be producible to the extent the consultants were performing a governmental function under 506(d) of the RTKL, 65 P.S. §67.506(d)(1) or if required by contract.⁴ Neither were the records in question created and retained by the agency based on information imparted by the consultants orally. Consultants may now choose not to provide documentation or limit the documentation imparted during the deliberative process period. Note also that the Court rejected DCED’s attempt to categorize the consultants as “agents,” although it is not clear that an agency relationship would have prompted the Court to rule differently, given that agents are not “employees or officials.” Although attorney-client privilege was asserted at one point, the Court concluded that the purportedly privileged documents had in fact been produced and held that this aspect of the case was moot.⁵ Finally, note that a document otherwise exempt under the deliberative process privilege could become public and subject to RTKL production if “brought to the attention of, or referenced” during an open meeting under the Sunshine Act. See 65 Pa. C.S. §708 (document presented is public).⁶ See generally the Sunshine Act, 65 Pa. C.S. §§701-714.

The general belief prior to the *Chester Water* decision was that the documents exchanged with consultants were sufficiently internal and

of necessity encompassed within the agency’s deliberative process privilege. See *Farmworker Legal Aid Clinic v. Berks County*, OOR Docket AP2016-0973, cited in J. Chadwick Schnee, *The Right-to-Know Law – A Practice Guide*, at 153 & n.99 (2d Ed. 2020). That belief is no longer viable.

There is little doubt that this decision will have a significant impact on the work of state and local government. Municipalities may opt to embrace the *Chester Water* decision and operate in an “open book” manner, or may choose to employ one or more of the methods available that may protect disclosure of materials exchanged while deliberations are underway. Private parties providing governmental services in current contracts with state and local agencies need to contemplate what documentation has been provided with the expectation of confidentiality, and to discuss with their local and state clients how to address confidentiality issues during deliberative processes. Other private parties, including communications media, citizens, and competitors, seeking documents and information during deliberations have a new tool with which to examine the on-going workings of state and local governmental agencies. □

See footnotes on [page 58](#) →



LEGAL NOTES

Supreme Court Review for Local Governments 2020-21

BY LISA SORONEN
STATE AND LOCAL LEGAL CENTER, WASHINGTON, D.C.



The SLLC filed an *amicus* brief in all of the cases discussed below.

The U.S. Supreme Court's 2020-21 term produced a bumper crop of local government cases. Chicago, Philadelphia, Baltimore, San Antonio and San Francisco were all named parties in SCOTUS cases. Unfortunately, victories for local governments were few and far between. This article covers four of the most important cases for local governments decided this term. The cases involve a wide range of constitutional issues from Fourth Amendment seizures to First Amendment Free Exercise of religion to Fifth Amendment takings.

In a 5-3 decision in [Torres v. Madrid](#) the Supreme Court held that a

person may be “seized” by a police officer per the Fourth Amendment even if the person gets away.

In this case, police officers intended to execute a warrant in an apartment complex. Though they didn't think she was the target of the warrant, they approached Roxanne Torres in the parking lot. Torres got in a car. According to Torres, she was experiencing methamphetamine withdrawal and didn't notice the officers until one tried to open her car door. Though the officers wore tactical vests with police identification, Torres claimed she only saw the officers had guns. She thought she was being car jacked and drove away.

She claimed the officers weren't in the path of the vehicle, but they fired 13 shots, hitting her twice. Torres drove to a nearby parking lot, asked a bystander to report the attempted carjacking, stole another car and drove 75 miles to a hospital.

Torres sued the police officers claiming their use of force was excessive in violation of the Fourth Amendment's prohibition against “unreasonable searches and seizures.”

The officers argued, and the lower court agreed, that Torres couldn't bring an excessive force claim because she was never “seized” per the Fourth Amendment since she got away.

The Supreme Court, in an opinion written by Chief Justice Roberts disagreed. Relying on common law, the Court held that “application of physical force to the body of a person with intent to restrain is a seizure, even if the force does not succeed in subduing the person.”

In a four-page opinion, the Supreme Court held unanimously in [Caniglia v. Strom](#) that police community caretaking duties don’t justify warrantless searches and seizures in the home.

During an argument with his wife, Edward Caniglia put a handgun on their dining room table and asked his wife to “shoot [him] now and get it over with.” After spending the night at a hotel, Caniglia’s wife couldn’t reach him by phone and asked police to do a welfare check.

Caniglia agreed to go to the hospital for a psychiatric evaluation after officers allegedly promised not to confiscate his firearms. The officers went into his home and seized his guns regardless.

Caniglia sued the officers for money damages claiming that he and his guns were unconstitutionally seized without a warrant in violation of the Fourth Amendment.

In *Cady v. Dombrowski* (1973), the Court held that a warrantless search of an impounded vehicle for an unsecured firearm didn’t violate the Fourth Amendment. According to the Court in that case, “police officers who patrol the ‘public highways’ are often called to discharge noncriminal ‘community caretaking functions,’ such as responding to disabled vehicles or investigating accidents.”

The First Circuit ruled in favor of the police officers in *Caniglia* extending *Cady’s* “community caretaking exception” to the warrant requirement beyond the automobile and to the home.

Justice Thomas, writing for the Court, rejected the First Circuit’s extension of *Cady*. Justice Thomas noted the *Cady* opinion repeatedly stressed the “constitutional difference” between an impounded vehicle and a home.

Justice Kavanaugh, in a concurring opinion, offered a view helpful to local governments: “the Court’s exigency precedents, as I read them, permit warrantless entries when police officers have an objectively reasonable basis to believe that there is a current, ongoing crisis for which it is reasonable to act now.”

The Supreme Court held unanimously in [Fulton v. Philadelphia](#) that the City of Philadelphia violated the First Amendment when it refused to contract with Catholic Social Service (CSS) to certify foster care families because CSS refuses to work with same-sex couples.

When the city discovered that CSS wouldn’t certify same-sex couples to become foster parents because of its religious beliefs, the city refused to continue contracting with CSS. The city noted CSS violated the non-discrimination clause in its foster care contract. CSS sued the city claiming its refusal to work with CSS violated the Free Exercise and Free Speech Clauses of the First Amendment.

Chief Justice Roberts, writing for the Court, concluded that the city violated CSS’s free exercise of religion rights.

He noted that in *Employment Division, Department of Human Resources of Oregon v. Smith* (1990), the Court held that “laws incidentally burdening religion are ordinarily not subject to strict scrutiny under the Free Exercise Clause so long as they are neutral and generally applicable.” But, the Court held, *Smith* didn’t apply in this case because the city’s non-discrimination clause allowed for exceptions, meaning it wasn’t generally

applicable. Because *Smith* didn’t apply, the city’s refusal to contract with CSS had to be evaluated under strict scrutiny.

The city cited three interests in ensuring non-discrimination when certifying foster families: maximizing the number of foster parents, protecting the city from liability, and ensuring equal treatment of prospective foster parents and foster children.

According to the Court: “Maximizing the number of foster families and minimizing liability are important goals, but the City fails to show that granting CSS an exception will put those goals at risk. If anything, including CSS in the program seems likely to increase, not reduce, the number of available foster parents. As for liability, the City offers only speculation that it might be sued over CSS’s certification practices.”

As for equal treatment of prospective foster parents and foster children, Chief Justice Roberts wrote: “We do not doubt that this interest is a weighty one, for ‘[o]ur society has come to the recognition that gay persons and gay couples cannot be treated as social outcasts or as inferior in dignity and worth.’ On the facts of this case, however, this interest cannot justify denying CSS an exception for its religious exercise. The creation of a system of exceptions under the contract undermines the City’s contention that its nondiscrimination policies can brook no departures.”

In [Cedar Point Nursery v. Hassid](#), the Supreme Court held 6-3 that a California regulation allowing union organizers access to agriculture employers’ property to solicit support for unionization up to three hours a day, 120 days a year is a per se physical taking under the Fifth and Fourteenth Amendments.

continued on [page 59](#) →

Carlisle Receives National Recognition as All-America City!

BY REBECCA TROUT, ALL-AMERICA CITY AWARD PROGRAM DIRECTOR, NATIONAL CIVIC LEAGUE

Carlisle, Pennsylvania was designated as one of the National Civic League's 2021 All-America City winners by showing that it is engaging residents to create an equitable and resilient place for all to call home.

In a year filled with an unprecedented confluence of challenges, it was fitting that this year's All-America City theme was "building equitable and resilient communities," with resilience being the trait that allowed communities to survive, and equity being a key to making sure history doesn't repeat itself.

All-America City applicants for 2021 were asked to discuss the strength of their civic capital—the formal and informal relationships, networks and capacities they use to make decisions and solve problems—and to provide examples of three community-driven projects that have adapted and transformed the community to be more equitable and resilient.

Carlisle's pre-existing collaborations and engaged residents allowed them to respond to the compounding challenges of 2020 proactively and effectively. While Carlisle is a diverse community by Central Pennsylvania standards, 2020 showed that there is

still significant work to be done by leaders to listen to and act upon the needs of historically underserved residents. Carlisle's three featured projects showed the progress they're making on both resilience and equity goals.

As it became clear that the COVID-19 pandemic would reach Carlisle, a group of 30 community leaders, which had met occasionally and in-person since 2017, intentionally expanded its membership and began a collaborative response.

The Carlisle Community Action Network (Carlisle CAN) quickly grew to over 100 community members. During weekly Zoom meetings, members listened to community health updates and discussed short- and long-term needs of the community. Spinoff committees would then develop projects to address the identified needs.

The Carlisle CAN Public Health Initiatives encouraged individuals, and business owners and patrons to wear masks while in public spaces. CAN members distributed more than 4,000 masks and posters to 120 participating businesses. The group developed vaccine education materials with special attention to providing role models from communities of color and translating materials into multiple languages.

The Summer Youth Care Taskforce was formed to determine how community members could collaborate and pool resources to support local childcare options during the pandemic. The Summer Program for Youth added multiple de-densified sites, so dozens of additional families had access to high-quality and safe childcare services.

In response to the growing list of CAN-generated projects being added to the waiting list, the Civic Action Internship Program was developed. Dickinson's Center for Civic Learning and Action created an internship program to contribute to the projects and provide experiential learning opportunities for students. 16 students have completed over 25 different projects in partnership with nearly two dozen community organizations.

The next featured effort was Carlisle's work towards racial equity. As in many places throughout the country, Black Lives Matter rallies and protests were held in Carlisle throughout 2020. The largest demonstration took place on June 3rd on Dickinson College's academic quad and was attended by 500.

While a well-organized rally can unite people, to sustain that momentum you need sustained

Carlisle Lincoln Cemetery



leadership and organizations to empower people to act. One such action by equity-focused organizations in Carlisle was the rededication of Lincoln Cemetery.

Due to poor maintenance, drainage problems and vandalism of tombstones, the grave markers of 650 Black Carlislians (1804-1905) were removed and placed into storage, only to disappear.

The 2019 class of the United States Army War College sought to right this wrong by offering a gift to commemorate the cemetery. The class gift of an archway was installed and dedicated in the entryway to the cemetery to guide visitors. Additionally, council funding and grants have allowed for projects beautifying the cemetery and memorial park.

The Borough of Carlisle and the Carlisle Martin Luther King Commemoration Committee also hosted a town hall meeting to kick off a series of deep dives into the racial history, current conditions and hope for the future of racial reconciliation.

Carlisle Lincoln Cemetery Beautification



After hearing residents' painful experiences of racism, the borough passed a resolution in March creating a Truth and Reconciliation Commission made up of community members who can research and inform the borough on actions that should be taken to acknowledge, address and heal the historical wounds of racism in Carlisle.

Carlisle CAN



Lastly, Carlisle highlighted its Climate Action Commission. Multiple local environmental civic groups have spent years educating the local community on the environ-

→

mental costs of air, water, and land/soil pollution and petitioned their locally elected officials to begin to act and be accountable.

This activism culminated in borough council taking concrete action toward addressing these concerns by approving a Climate Action Resolution committing Carlisle to meet or exceed any state, federal and international Greenhouse Gas (GHG) reduction commitment. The resolution also calls for the establishment of a Climate Action Commission (CAC) to recommend a Climate Action Plan (CAP) to council for approval.

Within two months, resident participation in the CAC exceeded that of any other standing borough committee or board, placing over 40 residents into four distinct teams.

In total, the Climate Action Commission has brought together dozens of organizations and hundreds of residents into the Climate Action Planning Process. The effort has brought together all stakeholders as well as partners into the climate action planning process, including electricity and natural gas utility company representatives.

"This was truly a group effort, and I couldn't be prouder of the work it took to win the All-America City Award, said Mayor Tim Scott. "This award is truly for the residents and businesses of the Borough. I know, and everybody who lives here knows that Carlisle is a special place, and now the entire nation knows it."

These three projects demonstrated Carlisle's commitment to resilience and equity and clearly met the criteria required of All-America

Cities, which include: Shared Vision; Civic Engagement; Inclusiveness and Equity; Collaboration; Innovation; and Impact. This award honors the progress and innovation demonstrated through the community's cross-sector partnerships in these three project examples. We celebrate Carlisle's courage to recognize its challenges and move forward to get the hard work done collaboratively, innovatively, inclusively and with maximum civic engagement.

Congratulations to Carlisle and the other All-America Cities that are leading the way by engaging their whole community to create resilient and equitable communities. And a special shout-out to the [15 other Pennsylvania communities](#) that have won the award in past years.

Join us! In partnership with the Campaign for Grade-level Reading, the 2022 theme is Housing as a Platform for Equitable Learning Recovery. More information about the 2022 award theme can be found on the [website](#). For those thinking further ahead, the theme for 2023 will involve the well-being of children and youth engagement. More details to come later.

One by one, communities across the country are working together to build a better America for all. □

Pennsylvania Supreme Court Holds That Documents Exchanged by Consultants With Municipalities and State Agencies Do Not Fall Within the Deliberative Process Privilege *continued from* [page 53...](#)

Footnotes

- 1 Justice Saylor relinquished his post as Chief Justice effective April 1, 2021, but remains a Justice on the Pennsylvania Supreme Court and is expected to retire at the end of the calendar year.
- 2 The consultant-contractor engaged two subconsultants, a financial advisor and a legal advisor.
- 3 There is extensive discussion in the Court's *Chester Water* opinions about the federal Freedom of Information Act; we view this discussion as interesting but not critical to the case's holding or reasoning.
- 4 Note the potential argument, particularly in the context of state contracts, that a contractual term of a contractor's agreement with the Commonwealth actually extends the contractor's RTKL responsibilities.
- 5 Had counsel retained the consultant and subconsultants, it may have been possible to protect some of the records as attorney work product or attorney-client communications. This approach is no panacea, of course. The attorney-client and work product privileges are technical, narrow and fact-specific.
- 6 See also *Mollick v. Worcester Twp.*, OOR Dkt. AP 2018-1070 (document referenced although not physically present).

The Fifth Amendment Takings Clause, applicable to the states through the Fourteenth Amendment, states: “[N]or shall private property be taken for public use, without just compensation.”

In this case, agriculture employers argued California’s union access regulation “effected an unconstitutional per se physical taking . . . by appropriating without compensation an easement for union organizers to enter their property.” The Supreme Court agreed.

According to Chief Justice Roberts, writing for the majority, “[w]hen the government physically acquires private property for a public use, the Takings Clause imposes a clear and categorical obligation to provide the owner with just compensation.” But when the government

“instead imposes regulations that restrict an owner’s ability to use his own property” the restrictions don’t require “just compensation” unless they go “too far.”

The Court held the access regulation “appropriates a right to invade the growers’ property” and therefore constitutes a per se physical taking rather than a regulatory taking. “Rather than restraining the growers’ use of their own property, the regulation appropriates for the enjoyment of third parties the owners’ right to exclude.”

Local government officials routinely go onto private property temporarily to do police work and conduct inspections, among many other reasons. Importantly, the Court stated that “government searches that are consistent with

the Fourth Amendment and state law cannot be said to take any property right from landowners” and “government health and safety inspection regimes will generally not constitute takings.”

Conclusion

Many of the Supreme Court decisions this term were narrow. *Caniglia*, *Fulton*, and even *Cedar Point Nursery* are examples of that trend. So while all three of these cases were losses for local governments (as was *Torres*), they could have been worse. While *Caniglia* and *Fulton* were unanimous, they were probably two of the narrowest decisions of the term. Local governments could not have expected to have won either of those cases. □

PROTECT AND INFORM YOUR COMMUNITY

The Stalker Radar brand of pole-mounted graphic displays and heavy-duty trailers use technology to calm traffic, display messages, and save lives. Advanced communication and power options provide solutions to Public Works challenges.

Trusted by more State Police than all other radar brands combined.

Mel Stahler
mel@stalkerradar.com
Cell: 513-806-0815



Trailers



Pole Mount

Contact us for a FREE Traffic Products Catalog

STALKER

1800-STALKER

StalkerRadar.com/PA

Professional DIRECTORY




AT&T Inc.
351 Stanley Drive
Palmyra, PA 17078

David Kerr
Vice President
External Affairs-Pennsylvania

T: 717.269.5872
dkerr@att.com



Proud Sponsor of the
U.S. Olympic Team



DELAWARE VALLEY TRUSTS
Managed Risk. Collective Rewards

Carol Bigham
cbigham@dvtrusts.com

719 Dresher Road
Horsham, PA 19044
Phone: 215-706-0101

Proactive beats reactive.

Taking steps to prevent labor and employment issues is a far better strategy than trying to mitigate them after the fact. We partner with municipalities in every corner of the Commonwealth, helping them address potential risks and create work environments where people and public service can thrive. We'd like to do the same for you.



CD CAMPBELL DURRANT, P.C.
PUBLIC SECTOR, LABOR AND EMPLOYMENT LAW

Pittsburgh (412) 395-1280 | Philadelphia (610) 227-2591 | cdblaw.com


Ashley Mahaffey
External Communications and
Community Relations Coordinator

The Giant Company
1149 Harrisburg Pike
Carlisle, PA 17013
ashley.mahaffey@giantmartins.com
717-254-2950



Jennifer Frees
Senior Manager
Government & External Affairs

Comcast Cable
1306 Goshen Parkway
West Chester, PA 19380
jennifer_frees@comcast.com
610-401-6482




GWIN DOBSON & FOREMAN
ENGINEERS

Phone 814.943.5214
Fax 814.943.8494

3121 Fairway Drive, Altoona, PA 16602
www.gdfengineers.com



Constellation
An Exelon Company

Brian S. Weatherford
Vice President

100 Constellation Way Suite 1200C
Baltimore, MD 21202-6302

410 470 1852 Office
443 213 3563 Fax
443 695 4302 Mobile
www.constellation.com

brian.s.weatherford@constellation.com

**Proudly supporting the
Pennsylvania Municipal League**




HIGHMARK

HIGHMARKBLUESHIELD.COM


Highmark Blue Shield is an independent licensee of the Blue Cross and Blue Shield Association.



Cornerstone Wealth Advisory & Insurance Services, LLC

Patrick Geary
pgeary@cornerstonewais.com

3910 Caughey Rd.
Suite 220
Erie, PA 16506
Phone: 814-315-2000

NLC Service Line Warranty Program
by 

Ashley Shiwarski
Director, Regional Water

724.749.1097
412.874.9454
ashley.shiwarski@homeserveusa.com

www.NLC.org/serviceline
4000 Town Center Blvd, Ste 400, Canonsburg, PA 15317

Professional DIRECTORY

Jennifer CruverKibi, CPA

Partner

Maher Duessel

1800 Linglestown Road Suite
306
Harrisburg, PA 17110
jcruverkibi@md-cpas.com
717-232-1230 x204

MaherDuessel



**Municipal Benefits
Services**

Steve Solman
steve.solman@mbgbenefits.com

One Gateway Center
Suite 1475
Pittsburgh, PA 15222
Phone: 412-394-9332



PennPRIME

Angela Tennis, MBA, CIC, CRM, CIIP, AAI
Director of Insurance Services

800-848-2040 (within PA)
717-236-9469 *258 OFFICE
717-579-0076 CELL
717-236-9493 FAX
atennis@pml.org

414 North Second St.
Harrisburg, PA 17101
www.pennprime.com



pfm

John Molloy, CFA

Managing Director
molloyj@pfm.com

PFM Asset Management LLC
One Keystone Plaza, Suite 300
North Front & Market Street
Harrisburg, PA 17101

717.232.2723 OFFICE
717.233.6073 FAX

pfm.com



Fred Bean

VP, Program Management
888-400-4647
fbean@benecon.com
201 E. Oregon Road
Suite 100 | Lititz, PA 17543

PORTER & CURTIS
www.portercurtis.com

Kenneth F. Porter, ARM

PORTER & CURTIS, LLC

225 State Road
Media, PA 19063-1537

Email: kporter@portercurtis.com

Direct: 610.891.9856
Fax: 610.891.6936
Home: 610.891.9912

**SAUL EWING
ARNSTEIN
& LEHR ^{LLP}**

William W. Warren, Jr.
Partner

2 North Second Street, 7th Floor
Harrisburg, PA 17101-1619

717-238-7698 • fax 717-257-7584
wwarren@saul.com



Debra S. Gross
*Member Service
Representative – U-COMP*

dgross@pml.org
o 717-236-9469, ext. *254
toll-free 800-922-8063
f 717-236-9493

414 North Second Street
Harrisburg, PA 17101

PML.org

Frank P. Buzydlowski, Esq.

Director
State Government Affairs

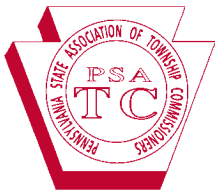
Verizon
210 Pine Street
7th Floor
Harrisburg, PA 17101
f.p.buzydlowski@verizon.com
O 717.777.5858

verizon ✓

PSATC President's Message



[NATE SILCOX](#)
[COMMISSIONER](#)
[HAMPDEN TOWNSHIP](#)



PML.org/PSATC

This will be my final Municipal Reporter message as President of the Pennsylvania State Association of Township Commissioners. It has been a privilege to serve in this statewide position – albeit in a very challenging year.

With the end of the COVID-19 emergency declaration in Pennsylvania, it has been great to see municipalities and businesses reopening, seeing friends for the first time in over a year, having in-person meetings, and just plain moving forward with plans that have been delayed.

With all this, there's another set of challenges. Like businesses, municipalities are facing employment issues – recruitment and retention. It seems as though municipalities are competing for the same limited pool of qualified applicants, particularly police officers. While that's great for employees, that means municipal payrolls and budgets are going up. And, as such, municipalities will have to get creative, like through intergovernmental agreements or Councils of Government (COGs).

Another ongoing challenge and a priority of PSATC has been infrastructure. Pennsylvania townships are charged with maintaining hundreds of thousands of miles of roads, thousands of sewer and stormwater facilities, let alone their municipal buildings and fire stations. To fund aging infrastructure repairs and meet mandates, PSATC has advocated for new funding options. It is with this in mind that we are optimistic that with the federal stimulus funding and bipartisan agreement on infrastructure, townships can catch up on infrastructure. But with that, we also ask for flexibility. Prevailing Wage has long inflated the cost of projects – and, rather than achieving its intended purpose of ensuring higher wages for employees, many projects do not get done because of this unfunded mandate.

On another front, one of PSATC's longstanding priorities has been permitting our local police – who are already charged with traffic and speed enforcement – to use radar. We are heartened that the Senate passed Senate Bill 419 by a 49-1 vote. Meanwhile, the House Transportation Committee unanimously reported its companion measure, House Bill 606. Please continue to speak with your House members and ask for a full House vote on this measure in the fall – so that Pennsylvania joins the 49 other states in the union in allowing our local police to use modern equipment to do their job.

To my fellow Commissioners, I hope that you will consider joining us in person for the joint PML/PSATC Municipal Leadership Summit, from Thursday, October 7 to 9 at the Lancaster Marriott at Penn Square. While last year's event was our inaugural Summit, this year's event will be the first in-person, which as you know, will afford us much more opportunities for interaction and networking which is so critical for us as local officials – to pick up on what is happening in another municipality.

Again, it has been an absolute honor and privilege to serve as a statewide leader for the Township Commissioners Association. I thank our entire leadership team for working with me and I look forward to seeing incoming President, Sam Valenza, from Upper Moreland Township (Montgomery County) sworn into office at the Summit!

God Bless!



Nate Silcox

Municipal Leadership Summit

OCTOBER 7 - 9, 2021

Lancaster Marriott at Penn Square



Click to Register Now

See more Summit information on [page 10](#).

Competitive yields *rooted in strength.*



Over 3000 of Pennsylvania's local governments and schools seek out PLGIT's careful fund managers to help grow their success. These exceptional managers maintain a trust with \$6.3 billion in assets, endorsements by the 7 statewide associations, and a 40-year reputation for outstanding service.

Help grow your success; choose PLGIT.

Contact us today for a no-obligation analysis of your cash management and investment program.



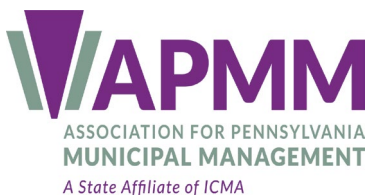
1.800.572.1472 | Existing Solely for Your Success | www.PLGIT.com

*This information is for institutional investor use only, not for further distribution to retail investors, and does not represent an offer to sell or a solicitation of an offer to buy or sell any fund or other security. Investors should consider the investment objectives, risks, charges and expenses before investing in any of the Trust's portfolios. This and other information about the Trust's portfolios is available in the current Information Statement, which should be read carefully before investing. A copy of the Information Statement may be obtained by calling 1-800-572-1472 or is available on the Trust's website at www.plgit.com. While the PLGIT and PLGIT/PRIME portfolios seek to maintain a stable net asset value of \$1.00 per share and the PLGIT/TERM portfolio seeks to achieve a net asset value of \$1.00 per share at its stated maturity, it is possible to lose money investing in the Trust. An investment in the Trust is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. Shares of the Trust's portfolios are distributed by **PFM Fund Distributors, Inc.**, member Financial Industry Regulatory Authority (FINRA) (www.finra.org) and Securities Investor Protection Corporation (SIPC) (www.sipc.org). PFM Fund Distributors, Inc. is a wholly owned subsidiary of PFM Asset Management LLC. SM**PLGIT, PLGIT-Class Shares, PLGIT/Reserve-Class Shares, PLGIT/PRIME, PLGIT/TERM, PLGIT-CD, and PLGIT-CAP** are service marks of the Pennsylvania Local Government Investment Trust. All facts and figures are as of December 31, 2020.*

APMM President's Message



AMY FARKAS
MANAGER
HARRIS TOWNSHIP



APMM.net

It is fitting that this issue of the Municipal Reporter is focused on infrastructure, as APMM is also focused on its own internal infrastructure. And just as we look for ways to strengthen our municipal infrastructure with an eye to the future, so too does APMM, as we work to position ourselves to grow our profession and our membership.

In 2020, we embarked on a strategic planning process that was intended to help us evaluate how we provide services and to identify our strengths and weaknesses as an organization. We spent the last year working on the foundation of our association, including looking at our committee structure and secretariat agreement.

The pandemic showed us new ways of bringing services to our members. We did a series of webinars in the winter and pivoted our annual conference to a virtual platform. The one-day event attracted 94 participants, including many who participated in watch parties with their colleagues across the state.

What the pandemic showed us is that we are at our best when we are connected and are growing our network across the state. Managers help each other and that in turn helps our profession become stronger.

We embark on the next year with an eye on how we can continue to foster this connection. Our revamped membership committee will focus on two areas – growing our membership and providing mentorship opportunities. I am pleased to announce the creation of the Peer Assistance Network (PAN), a subcommittee of the membership committee that will help foster mentorship across the state. PAN is intended to provide a space where a pool of members can offer advice, answer questions and provide recommendations to their colleagues. If you are a manager or assistant manager with a desire to help your colleagues, we want you to join PAN. You can do that on the [APMM website](#).

→

APMM President's Message *continued...*

We are also looking for volunteers to join all of our committees – membership, professional development and promotion. If you are interested in getting new managers in our profession, developing educational opportunities or promoting the benefit of professional municipal management, we want you. This is an opportunity for each of us to give back to our association.

We are acutely aware that our world is not the same as it was in February 2020, when we last met together in Bedford. We look forward to using the lessons we learned in the pandemic to re-engineer APMM and to position ourselves for the future.

I would be remiss if I didn't thank outgoing president Rick Mellor for his leadership over the last year. We made significant progress on the strategic plan thanks to his steady hand.

I am honored to serve as the president of APMM and look forward to working with each of you. Please do not hesitate to contact me with ideas or questions. I can be reached by email at manager@harristownship.org or by phone at (814) 466-6228.

Sincerely,



Amy Farkas

APMM News ...

APMM Membership Update

New/Reinstated Members

Mr. Matthew Candland

Township Manager
Upper Moreland Township
Montgomery County
117 Park Avenue
Willow Grove, PA 19090
267-607-1056
mcandland@uppermoreland.org
Full Member

Mr. James Drumm

Township Manager/Secretary
Manheim Township
Lancaster County
1840 Municipal Drive
Lancaster, PA 17601
717-569-6408
jdrumm@manheimtownship.org
Full Member

Mr. Donald Gennuso

Township Manager
Cecil Township
Washington County
3599 Millers Run Road
Suite 1
Cecil, PA 15321
724-745-2227
manager@ceciltownship.com
Full Member

Mr. Logan Grubb

Student
Adams County
300 North Washington Street
Gettysburg, PA 17325
717-566-6171
logancgrubb@gmail.com
Student

Mr. Timothy James

Manager
Manchester Township
York County
3200 Farmtrail Road
York, PA 17345
717-764-4646
t.james@mantwp.com
Full Member

Ms. Katherine Malsch

Borough Manager
Swissvale Borough
Allegheny County
7560 Roslyn Street
Pittsburgh, PA 15218
412-271-7101
kmalsch@swissvaleborough.com
Full Member

Mr. Jeffrey Smith

Assistant Township Manager
Township of Lower Merion
Montgomery County
75 E. Lancaster Avenue
Ardmore, PA 19003
610-645-6105

Email: jsmith@lowermerion.org

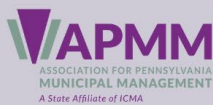
Full Member - Assistant Manager

Mr. Matthew West

Township Manager
New Britain Township
Bucks County
207 Park Avenue
Chalfont, PA 18914
215-822-1391

Email: mwest@newbritaintownship.org

Full Member



Save the date.

APMM FALL MANAGERS' MEETING

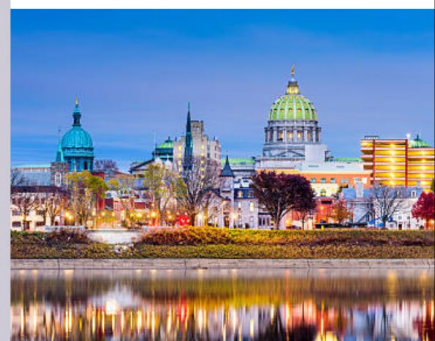
October 21 - 22

Hilton Harrisburg

1 N 2nd St, Harrisburg, PA 17101

Stay tuned for
program details.

www.apmm.net



We **HELP YOU**
MANAGE RISK 24/7.

So you can
FOCUS
on the 9-5.

With all the tasks that challenge you on a daily basis, we understand that risk management is only one of the many responsibilities on your “to do” list.

That’s why **PennPRIME** is here to help you manage the risk, even when you can’t.

Armed with our Trusts’ municipal entity-specific coverage, educational support, and other specialized services, we’re ready to be an extension of your team, whenever and however you need us.



PennPRIME
INSURANCE TRUSTS | A Service Program of The League

800.848.2040 www.pennprime.com