

**EXHIBIT "A"**

**The City of Coconut Creek, Florida**

*2019 Federal Legislative and  
Regulatory Agenda*





**Prepared by Van Scoyoc Associates for the**

**Coconut Creek City Commission**

**Mayor Josh Rydell  
Vice Mayor Sandy Welch  
Commissioner Becky Tooley  
Commissioner Lou Sarbone  
Commissioner Mikkie Belvedere**

**Questions regarding the information in this book may be directed to:**

<b>Mary Blasi</b>	<b>James Crum</b>
<b>(954) 973-6720</b>	<b>(202) 737-6561</b>

**Updated January 2019**



## City of Coconut Creek, Florida 2019 Federal Legislative and Regulatory Agenda

### **Energy & Environment**

#### **Federal Landfill Regulations and EPA Recycling Programs**

**Support** federal regulations that create stricter environmental standards and testing for municipal solid waste landfills, and subsequently reduce landfill emissions. **Oppose** efforts to weaken landfill and coal ash regulations. **Monitor** the EPA's implementation of the coal ash provisions in the WIIN Act. **Monitor** Congressional and Administration action with regard to the repeal or modification of rules related to solid waste landfills and their emissions. **Oppose** cuts to EPA recycling programs.

#### **Energy Exploration**

**Oppose** relaxation of the prohibition against leases on permits for drilling oil or gas wells within the boundaries of Florida's territorial seas. **Oppose** legislation that would prevent the Florida Department of Environmental Protection from blocking requests for offshore drilling in federal waters off Florida's coast. **Oppose** seismic surveying within the Everglades, surrounding critical areas, or any other federal lands. **Oppose** efforts to ease restrictions on hydraulic fracturing and other oil/gas extraction activities.

#### **Florida DEP Human Health-Based Water Quality Criteria Rulemaking**

**Oppose** the Florida DEP rulemaking to set new Human Health-Based Water Quality Criteria.

#### **Waters of the United States and Regulatory Reform**

**Monitor** activity related to the implementation of the EPA's rule on Waters of the U.S. **Monitor** activity related to regulatory reform.

#### **Geoengineering**

**Monitor** any proposed geoengineering bills that may impact the environment, and ensure that any negative environmental and health impacts are disclosed prior to approval.

### **Social Services & Economic Development**

#### **Department of Housing and Urban Development Formula Programs**

**Support** adequate funding for the Community Development Block Grant program for future fiscal years because of its critical role in the City's efforts to support those that are least fortunate.

#### **Healthcare Reform**

**Monitor** efforts to repeal/replace or amend the Affordable Care Act. **Monitor** changes to Medicare. **Support** the repeal of the excise tax on high-cost health insurance plans (a.k.a. the Cadillac tax) within the Affordable Care Act.



### **Mental Health Care Initiatives to Reduce Gun and Other Violence**

**Support** legislation that bans high-capacity assault weapons. **Support** legislation that restricts the sale of firearms and requires thorough background checks and licensing. **Support** legislation that responsibly expands treatment options for the mentally ill.

### **School Vouchers**

**Oppose** federal efforts to expand school voucher programs.

### **Electronic Smoking Devices**

**Support** the creation of federal regulations for e-cigarettes and other vapor producing devices.

## **Infrastructure**

### **Infrastructure Investment**

**Support** new federal investment in infrastructure. **Support** all opportunities to secure funding for Coconut Creek's infrastructure priorities.

### **Transportation Authorization**

**Support** efforts to enhance federal transportation revenue streams. **Support** adequate funding of transportation alternatives programs, such as bicycle, pedestrian, and trails projects. **Support** adequate funding of federal public transit programs, including high-speed rail. **Support** any and all opportunities to secure funding for City of Coconut Creek priorities via the FAST Act or other means.

## **General Regulatory Issues**

### **Domestic Discretionary Spending Pressure**

**Monitor** proposed cuts to non-defense discretionary programs of importance to the City of Coconut Creek.

### **Remote Sales-Tax Legislation**

**Support** legislation that requires companies making catalog and internet sales to collect and remit the associated taxes. **Support** federal tax policies that maintain revenue streams to local governments.

### **Tribal Legislation and Regulation**

**Monitor** tribal legislation and regulations that could impact the City of Coconut Creek.

### **Federal Communications Commission Rulemaking on Streamlining Deployment of Communications Facilities and Wireless Infrastructure in the Public Right of Way**

**Oppose** legislation that would preempt local government control and force local governments to lease publicly-owned infrastructure for the installation of "small cell" wireless towers.

### **International Diplomacy**

**Support** the use of diplomacy to resolve international conflicts.

### **Transparency**

**Support** efforts to increase government transparency and accessibility of public records.



### **National Flood Insurance Program**

**Support** efforts to improve the National Flood Insurance Program for the benefit of all participants.

### **Federal Marijuana Policy**

**Monitor** any impacts federal marijuana policy may have on Florida's medical marijuana program.

### **Thin Blue Line**

**Monitor** the development of legislation that expands statutory aggravated determinations to include killing or targeting law enforcement.

### **Public Safety**

#### **Sanctuary City Issue**

**Monitor** Sanctuary City policies and potential impacts to the City of Coconut Creek.

#### **Federal Funding of Public Safety Programs**

**Support** continued adequate funding for the wide variety of DOJ and DHS grants, i.e., Community Oriented Policing Services, Byrne Justice Assistance Grants, Emergency Management Preparedness Grants, Assistance to Firefighters Grants, Staffing for Adequate Fire and Emergency Response Grants, Urban Areas Security Initiative grants, and other security-specific grants. **Support** the City of Coconut Creek's applications for these funds.



## **FEDERAL ISSUE: Federal Landfill Regulations and EPA Recycling Programs**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** The North Broward County Resource Recovery and Central Disposal Sanitary Landfill, also known as Monarch Hill Renewable Energy Park, is a 225-foot high landfill site owned by Waste Management located adjacent to the City of Coconut Creek. The landfill takes in an average of 3,500 tons of trash per day and has long emitted foul odors into the air of the City. Odors from the facility have been reported as far as four miles away.

In the 1990's, Waste Management was fined for violating air quality standards after several complaints from the City came forward. The company attempted to alleviate the problem by covering the garbage with extra dirt and spraying deodorizer. After those attempts proved unsuccessful, Waste Management agreed several years later to no longer place extremely odorous materials, such as food, within the landfill. Instead, processable waste would be diverted from Monarch Hill to a nearby Waste to Energy (WTE) plant known as the Wheelabrator Waste Energy Facility. Despite these actions, as well as a series of warnings from Broward County, odors continued to plague Coconut Creek.

In 2014, Waste Management announced the sale of the Wheelabrator facility. The City believed this sale would permit Waste Management to dispose of additional waste in the landfill, violating their agreement and potentially exacerbating the odors. The Broward County Commission, which has jurisdiction over the landfill, voted to approve the sale. Coconut Creek, however, was able to reach an agreement with Waste Management to limit the amount of non-Class III waste that will be dumped on Monarch Hill.

The Environmental Protection Agency (EPA) announced an Advanced Notice of Proposed Rulemaking (ANPRM) and public comment period in mid-2014 regarding methods to reduce emissions from existing municipal solid waste landfills. Most existing landfills are subject to control requirements in EPA's landfill New Source Performance Standards (NSPS) or the federal or state plans implementing the landfill emissions guidelines, which were both promulgated in 1996. The EPA believed that these guidelines merited review and possibly updating with regard to emissions of landfill gas. The City submitted comments in support of this review.

In 2016, EPA finalized a proposed rule that will reduce landfill gas emissions by lowering the emissions threshold at which a landfill must install emissions control systems from 50 mega grams (Mg) per year to 34 Mg per year. Any landfill that exceeds those thresholds would be required to install and utilize a gas collection and control system to bring emissions levels below the threshold within 30 months of the violation. The City submitted additional comments in support of this rule. The final rule became effective on October 28, 2016.

In May 2017, the EPA announced that they were reconsidering several issues in the 2016 rule and enacted a 90 day stay on the 2016 NPS rule. This stay expired in August, meaning the rule remains in effect.

**RECENT DEVELOPMENTS:** In 2018 EPA issued a new proposed ruling to amend the 2016 rule by changing the timing requirements for States to submit their compliance plans delaying the State's due dates from May 2017 to Aug 2019. The City prepared a response to this proposed rulemaking



highlighting the impacts from continued delays in implementing the original 2016 regulation. Copies of their response were provided to their Congressional delegation.

### Coal Ash

In a related issue, the EPA issued a final rule in December 2014 that regulates coal combustion residuals generated from the combustion of coal at electrical utilities, power producers, and some landfills, also known as “coal ash.” Coal ash contains toxic substances that can cause major health related problems. While the EPA’s new regulation did not designate coal ash as hazardous waste, it did take steps to establish standards and enforcement mechanisms for coal ash management and disposal.

During the 114<sup>th</sup> Congress in 2016, the Water Infrastructure Improvements for the Nation (WIIN) Act was signed into law. The bill includes the Water Resources Development Act (WRDA) of 2016 and provisions to address the control of coal combustion residuals, among other priorities. With regard to coal combustion residuals, the bill provides the authority to establish state and EPA permit programs for coal ash and allows flexibility for states to incorporate the EPA final rule for coal ash or develop other criteria that are at least as protective of the final rule. The EPA is required to approve state permit programs within 180 days of a state submitting a program for approval. The EPA has released interim final guidance outlining the process for states to develop and submit a program to EPA for approval.

In September 2017, the EPA granted two petitions to reconsider provisions of the final rule. These petitions requested that the EPA reconsider 12 different provisions of the rule, including those prohibiting the use of alternative points of compliance for ground water contamination, regulating inactive surface impoundments, defining what activities constitute beneficial use of CCR and certain on-site storage practices. At this time, the EPA has not committed to changing any of the specific provisions and will need to go through a formal notice and comment process if they propose any changes.

Additionally, in June 2018, EPA proposed to amend 40 CFR parts 355 and 370 to exclude certain requirements for notifying communities in accordance to hazardous chemical reporting requirements. Specifically, one of these categories of hazardous materials was coal ash. This, in effect, would allow haulers to transport coal and fly ash through Coconut Creek without appropriate notification to the community. VSA worked with the City to draft a strong response back to the EPA on this proposed ruling.

### *Recycling Programs*

The EPA manages two recycling programs that are vital to efforts to divert waste away from landfills: the Sustainable Materials Management Program and the Waste Reduction Model. Sustainable Materials Management outlines the best practices for local governments and industry partners to use waste materials as commodities, growing associated industries and jobs and reducing waste and impacts on our landfills. These tools are essential to help mitigate the impact of the landfill on the local community. The EPA provides technical assistance and support to communities and industry partners as it is believed that local governments are not able to compile the breadth of research and expertise that the EPA provides.

The Waste Reduction Model (WARM) assists local governments and waste management providers in calculating the greenhouse gas (GHG) emission reductions that are achieved from different waste



management practices. These calculations can assist in decision making for governments and private businesses as they assess their waste management needs. Additionally, it can allow local governments to see the impact of various waste management policies on their local landfill.

RECENT DEVELOPMENTS: In the FY 2019 budget proposal, the Trump Administration proposed to reduce funding for both programs. Congressional appropriations for EPA in 2019 are still at an impasse at the timing of this update. The draft recommendation by Congress increases the program's funding level by \$38 million to \$112 million. Furthermore, in the recently passed Water Resources Development Act of 2018, water recycling programs continued to be supported through the "WaterSENSE Program" which promotes water reuse and water recycling. The 2019 draft House appropriations report recommends funding the WaterSENSE program at approximately \$187 million.

POSITION: **Support** federal regulations that create stricter environmental standards and testing for municipal solid waste landfills, and subsequently reduce landfill emissions. **Oppose** efforts to weaken landfill and coal ash regulations. **Monitor** the EPA's implementation of the coal ash provisions in the WIIN Act. **Monitor** Congressional and Administration action with regard to the repeal or modification of rules related to solid waste landfills. **Oppose** cuts to EPA recycling programs.





## **FEDERAL ISSUE: Energy Exploration**

### **BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:**

#### *Offshore Energy Development*

Active energy drilling does not currently occur off the Atlantic coast of Florida. State waters in the Atlantic extend three miles from shore, with the federal government controlling waters beyond that point.

For many years, the federal government has developed five-year Outer Continental Shelf (OCS) Oil and Gas Leasing programs to guide energy exploration activities in federal waters. The most recent plan, developed for 2012-2017, did not propose to lease any areas in the Atlantic OCS for oil and gas drilling. However, that plan did indicate that it would allow seismic analyses to determine energy resource potential in areas of the Atlantic OCS from Delaware to parts of Florida (approximately north of Brevard County). The City submitted comments to Bureau of Ocean Energy Management (BOEM) regarding its concerns over the negative effects seismic air-gun testing could have on the ecosystem, and consequently on the region's economy that is so dependent on unique ecotourism activities, such as whale watching and commercial and recreational fishing. The City also stated its general opposition to oil and gas exploration off the Atlantic Coast of Florida due to the devastating effects that accidents like the Deepwater Horizon oil spill have on the ecosystem and economies of coastal communities.

Although typically a new five-year plan would not be developed for several years, in April 2017, President Trump signed the America First Offshore Energy Strategy Executive Order. The Executive Order aims to increase domestic energy production and reduce the use of foreign oil by, in part, by expanding offshore drilling.

As a part of implementing that order, BOEM is in the process of developing a new 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Program. The Program's development process started with a Request for Information (RFI) that requested input on all 26 Outer Continental Shelf's planning areas, including the Atlantic Coast of Florida. The RFI for the 2019-2024 Program was announced by President Trump and the Secretary on June 29, 2017. The RFI officially published in the Federal Register on July 3, 2017. The comment period closed on August 17, 2017, and BOEM received approximately 816,000 comments from a host of stakeholders including governors, Federal agencies, state agencies, local agencies, energy and non-energy industries, tribal governments, non-governmental organizations including environmental advocacy groups, and the general public. Comments received in response to the RFI ranged from supporting exploration and development of the entire OCS to prohibiting any such exploration and development at all.

The first draft of the Program was released in January 2018 and included proposed development of oil and gas in program areas on the western and eastern coasts of Florida. However, the western coast of Florida is under a moratorium of oil and gas activities under the Gulf of Mexico Energy Security Act of 2006. This moratorium lasts until 2022 under the current law. Governor Scott weighed in against the plan and personally met with the President and then Interior Secretary Zinke to discuss the proposal. Additionally, Senator Nelson and other members of the Florida delegation released



statements criticizing the draft BOEM program. After the meeting, Secretary Zinke stated that Florida was being removed from consideration for any new oil and gas platforms. This exemption most likely does not extend to seismic testing, which could be used to prepare Florida's waters for offshore drilling in the future.

During 2019, VSA and the City will monitor closely the BOEM proposed program and requirements to complete an Environmental Impact Study to address public comments and all environmental-related issues and impacts.

Finally, it is worth noting that late in 2019 Florida's Constitutional Amendment 9 was passed and will prohibit offshore oil and gas drilling in state coastal waters. Florida law already bans oil and gas leases in state waters. But there has been perennial political pressure on Florida to lift the ban. By putting it in the state Constitution, the restrictions will be much harder to change

#### *Onshore Energy Development (Hydraulic Fracturing)*

The rapid expansion of oil and gas extraction using hydraulic fracturing — both in rural and more densely populated areas — has raised concerns about its potential environmental and health impacts. These concerns have focused primarily on impacts to groundwater and surface water quality, public and private water supplies, and air quality.

In Florida, the Burnett Oil Company submitted a proposal to the National Park Service (NPS) to conduct a seismic survey of 110 square miles within Big Cypress Preserve. Similar to offshore seismic testing, a seismic survey is a preliminary research technique used to determine the presence of oil and gas below the surface of the ground, which may lead to future harvesting in those areas found to be rich with resources. Burnett Oil's four-phased seismic survey will ultimately impact 230,000 acres, or one-third, of Big Cypress. The NPS completed an Environmental Assessment (EA) for the proposal and the City submitted comments in opposition to the seismic surveys. In May 2016, the NPS issued a finding of no significant impact following their environmental review. Burnett Oil is required to implement a variety of measures to prevent lasting impacts and minimize short-term impacts to the preserve's resources during survey activities. The environmental assessment only covers the seismic survey. Should Burnett Oil wish to pursue production of resources, they must submit a new plan of operations which would undergo additional environmental review and public comment periods. However, in July 2016, six environmental groups filed suit to stop Burnett Oil's seismic survey. The court subsequently ruled that the drilling posed minimal risk to the Everglades and regional water supplies and subsequently, the surveys were conducted. During 2018, Burnett Oil was delayed in trying to complete their first phase of surveys. In December 2018, they received a renewal of their permit for 2019.

In March 2015, DOI finalized regulations for hydraulic fracturing on public lands, which will allow government workers to inspect and validate the safety and integrity of barriers lining the fracking wells, require companies to publicly disclose the chemicals used in fracturing, and set safety standards for how companies can store and dispose of used fracking chemicals. The rule would have only applied to federal lands. In June of 2016, a federal judge in Wyoming struck down the rule, citing that DOI had overstepped its authority and would need Congressional approval to implement the rule. In December of 2017, the Trump Administration published a final rule repealing the previous 2015 regulation.



The City of Coconut Creek has strongly and formally opposed fracking throughout the state via resolution as well as passed an ordinance to outlaw energy exploration or fracking within City limits.

POSITION: **Oppose** relaxation of the prohibition against leases on permits for drilling oil or gas wells within the boundaries of Florida’s territorial seas. **Oppose** legislation that would prevent the Florida Department of Environmental Protection from blocking requests for offshore drilling in federal waters off Florida’s coast. **Oppose** seismic surveying within the Everglades, surrounding critical areas, or any other federal lands. **Oppose** efforts to ease restrictions on hydraulic fracturing and other oil and gas extraction activities.



**FEDERAL ISSUE: Florida DEP Human Health-Based Water Quality Criteria Rulemaking**

BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK: In May, the Florida Department of Environmental Protection (DEP) initiated a rulemaking to set new Human Health-Based Water Quality Criteria for 39 chemicals and to adjust the standards for 43 chemicals currently regulated by the state. The Florida Environmental Regulation Commission approved these standards in July by a 3-2 vote.

Many groups made their opposition clear. The Florida chapter of Physicians for Social Responsibility, a national health association, opposed any rulemaking that would increase the allowable limits of toxic compounds discharged into the state's waters. The compounds proposed for regulation include known human carcinogens and endocrine disruptors. Allowing higher carcinogen levels in Florida's water could also hurt Florida's fish and seafood industry as well as the tourism industry.

In September and November 2016, the City of Coconut Creek Council passed two resolutions in opposition to efforts to weaken the human health-based water quality criteria. Also in November, the City sent a letter directly to the Environmental Protection Agency (EPA) expressing opposition to this rulemaking and asking the EPA to slow the development of this rulemaking. Concerns expressed by the City include public health, economic (tourism and seafood industries), inadequate public comment period, and the vacancies on the Florida Environmental Commission when this rulemaking was considered.

Before Florida DEP submitted the rule to the EPA, multiple groups (including the Seminole Tribe) sued over the new criteria. On February 2018, Florida DEP withdrew the rule. DEP proceeded with conducting a thorough 2018 Integrated Water Quality Assessment for the state and published it in June 2018.

POSITION: Oppose the Florida DEP rulemaking to set new Human Health-Based Water Quality Criteria



## **FEDERAL ISSUE: Waters of the United States and Regulatory Reform**

### **BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:**

#### *Waters of the United States*

A series of decisions by the U.S. Supreme Court over the past decade imposed restrictions on the scope of wetland regulation governed by Section 404 of the Clean Water Act (CWA), which regulates “dredge and fill” activities in navigable waters and their adjacent wetlands. Opponents of these restrictions have urged Congress to redefine Waters of the U.S. (WOTUS), and apply that definition to all aspects of the CWA.

As legislation along those lines failed to pass previous Congresses, the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (ACOE) over the past several years developed guidance and a final rule to redefine WOTUS. There is concern that this effort significantly expanded the definition of WOTUS to include tributaries, ditches, canals, and other water bodies that can potentially drain into navigable waters, interstate waters, or the territorial seas. These water bodies are likely to be subject to new requirements, and some waters currently covered by a permit could be subject to additional monitoring and regulation when those permits are renewed.

On December 11, 2018, the Environmental Protection Agency (EPA) along with the Army Corps of Engineers (ACOE) published a proposed rule redefining the scope of waters subject to federal regulation under the Clean Water Act (CWA), Waters of the United States (WOTUS). According to both the EPA and ACOE, the proposed changes to the definition of WOTUS are to “restore and maintain the integrity of the nation’s waters in a manner that preserves the traditional sovereignty of States over their own land and water resources.” A public hearing will be held on the proposed rule on January 23, 2019 in Kansas City, Kansas.

The changes proposed would separate navigable waterways under federal authority into six categories:

- 1) traditional navigable waterways (such as large rivers, and lakes etc.);
- 2) tributaries, e.g. rivers and streams that flow to traditional navigable waters;
- 3) certain navigable ditches, such as the Erie Canal;
- 4) lakes and ponds that contribute to navigable waterways;
- 5) impoundments of jurisdictional waters; and
- 6) adjacent wetlands (wetlands that touch other jurisdictional waters, however there are exceptions).

In contrast, the proposed changes would exclude from WOTUS all waters or water features not mentioned above. Specifically, the proposed definition excludes features that only contain water during or in response to rainfall (e.g., ephemeral features); groundwater; many ditches, including most roadside or farm ditches; prior converted cropland; stormwater control features; and waste treatment systems. By way of note, the Obama-era Clean Water Rule ephemeral streams were protected if they had an identifiable bed, bank and high-water mark. Bush-era guidance protected those streams if they had a significant hydrologic or ecological connection to navigable waters.



As stated by the EPA and the ACOE, the goal is to simplify the definition of WOTUS to empower the people of the United States to be able to better comply with the law, protect water resources, and essentially remove the red tape streamlining the ability of farmers and ranchers to work their land without getting the federal government involved. Detractors to the proposed rule change believe it will remove protections from Texas to South California. Furthermore, critics cite that this definition of WOTUS will free industry to dump toxic waste into streams across the US and allow the destruction of wetlands critical to endangered wildlife.

### *Regulatory Reform*

The repeal or rolling back of federal agency regulations and executive orders and actions has long been a topic of legislative debate. Congressional Republicans are exploring ways to reverse numerous regulations and executive orders enacted by the Obama Administration. The Congressional Review Act (CRA), which allows Congress to cast simple majority votes of disapproval for regulations within 60 legislative days of their adoption, is often cited as a way to block executive actions. Prior to 2017, it had only been used once since its passage 21 years ago. In the 115<sup>th</sup> Congress, it was used to roll back 15 rules issued by the Obama Administration. Those rules included regulations on teacher training, coal mining runoff, and bear hunting in Alaska.

While Congress has debated regulatory reform, and has made some strides towards enactment of these reforms, we can expect stronger push back from the Democratic-controlled House in the 116<sup>th</sup> Congress. The President has also indicated that he is going to have to work more closely with the House and their priorities in 2019.

VSA will continue to monitor any and all proposed regulatory actions that may affect Coconut Creek.

**POSITION:** *Monitor* activity related to the Waters of the U.S. rule. *Monitor* activity related to regulatory reform.



## **FEDERAL ISSUE: Geoengineering**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** Geoengineering is a scientific field that looks at using technology to counteract the effects of climate change. This is a rather new field with targeted research beginning in 2016. In January 2017, the Office of Science and Technology produced for Congress the National Global Change Research Plan that was a culmination of research in global climate change and with specific reference to geoengineering. It concluded that geoengineering practices to remove carbon dioxide from the atmosphere and/or reflecting sunlight to cool the planet requires coordinated research to conduct experiments in "ethical and responsible ways" for the future.

Under the Trump administration, enthusiasm appears to be growing for the controversial technology of solar geoengineering, which aims to spray sulphate particles into the atmosphere to reflect the sun's radiation back to space and decrease the temperature of Earth.

There was no new legislation introduced in 2018 specifically addressing geoengineering however, in 2017 Congressman Jerry McNerney (D-CA) introduced the Geoengineering Research Evaluation Act of 2017. Specifically, the legislation would direct the National Academies of Science (NAS) to produce two reports recommending a geoengineering research strategy and oversight principles for such research, building upon two previously published NAS reports. This bill was referred to the Science, Space, and Technology; Environment Sub-Committee for review and never brought to a vote for approval by the Committee.

Given the majority change in the House of Representatives in 2019, we expect new legislation related to geoengineering and climate change to be introduced and considered. Given the 100 new members of Congress that were sworn into office in January we expect a healthy debate over the need to better address climate change while at the same time concern about the controversial practices of solar engineering due to its risk to natural climate conditions.

**POSITION:** *Monitor* any proposed geoengineering bills that may impact the environment, and ensure that any negative environmental and health impacts are disclosed prior to approval.



## **FEDERAL ISSUE: Department of Housing and Urban Development Grant Programs**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** The City of Coconut Creek receives direct allocations of funding from the Department of Housing and Urban Development (HUD) grant programs including the Community Development Block Grant (CDBG) formula program.

These programs include:

- HOME Investment Partnerships Program
- Continuum of Care, Homeless Assistance Program
- Community Development Block Grants Program
- Supportive Housing for the Elderly Program
- Supportive Housing for Persons with Disabilities Program

Since Fiscal Year (FY) 2010, nationwide funding for these HUD program has been on a downward trend to pay for other priorities in the Federal budget. The two-year budget resolution passed by Congress for 2018 and 2019 allowed for higher allocations in account and consequently leveled-off this decline. In 2019, the new Congress will have to complete negotiations for resolving the “shutdown” with the Administration and begin developing the agency program appropriations bill for 2020.

Currently the President has recommended funding for all the HUD Programs listed except for the Community Development Block Grants Program and the Home Investment Partnerships Program. The Congress has drafted their appropriations bills that would restore most if not all of this funding.

VSA and the City will continue to advocate funding for these programs during this year’s congressional legislative cycle.

**POSITION: *Support* adequate funding for the Housing and Urban Development Grant Programs in 2019.**





## **FEDERAL ISSUE: Healthcare Reform**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** The Patient Protection and Affordable Care Act (PPACA), often referred to simply as the Affordable Care Act (ACA) or “Obamacare,” was passed by Congress and signed into law in 2010. The primary goal of the ACA was to increase the quality and affordability of health insurance, as well as lower the uninsured rate by expanding public and private insurance coverage. The law included a number of mechanisms, including individual and employer mandates, insurance exchanges, minimum standards of care, and new taxes/fees to accomplish these goals.

In December of 2018, U.S. District Judge Reed O’Connor ruled that the Affordable Care Act was unconstitutional. The Republicans said that they hoped the 5th U.S. Circuit Court of Appeals, and potentially the Supreme Court, will uphold O’Connor’s ruling so that states would be able to regulate their own individual insurance marketplaces.

The House of Representatives plans to hold a vote in early January on whether to defend the Affordable Care Act in the federal lawsuit that’s set to be heard in the appellate court. The PPACA law continues to be in effect while it moves through the appeal process.

Also early in the new Congress in 2019, House Democrats plan to hold hearings on universal healthcare legislation after House Speaker Nancy Pelosi (D-CA) gave her support. Representative Pramila Jayapal (D-WA), the sponsor of the *Medicare for All* proposal, expects to release a bill this month and hold hearings in a number of committees.

Future ACA repeal or reform could provide an opportunity to address the issue of the Cadillac tax. Under the ACA, a Cadillac health plan is defined as a plan with annual premiums exceeding \$10,200 for individuals or \$27,500 for families. Under current law, a 40 percent excise tax will be assessed on any dollar amount paid in premiums exceeding the aforementioned values, which, will adjust to inflation annually. However, the rate of growth in healthcare costs often outpaces the rate of inflation, meaning employers are likely to pay significantly more each year. Originally envisioned as a tool to reduce healthcare costs, the tax in practice looks increasingly like an increase in out-of-pocket costs for workers. The tax, which is estimated to generate \$87 billion over the next ten years, is an offset to pay for the ACA.

The excise tax was originally slated to begin in 2013. However, due to strong concerns expressed by labor groups and others, the ACA was amended twice by Congress to delay the tax until 2022.

**POSITION:** **Monitor** efforts to repeal/replace or amend the Affordable Care Act. **Monitor** changes to Medicare. **Support** the repeal of the excise tax on high-cost health insurance plans (a.k.a. the Cadillac tax) within the Affordable Care Act.



## **FEDERAL ISSUE: Mental Health Care Initiatives to Reduce Gun and Other Violence**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** Gun control rose to the forefront of the national discussion amid a number of deadly mass shootings throughout recent years – and a number of initiatives were approved by voters on state ballots during the 2018 midterm elections.

The City of Coconut Creek strongly supports legislation that would ban assault weapons, automatic weapons, and large external magazine weapons and ammunition. The City also supports the requirement that the purchase and ownership of a gun to be registered and licensed; and prohibit any person, other than law enforcement, to carry a weapon or firearms into a government facility or park.

In the aftermath of the shooting in Las Vegas, a movement to ban so-called “bump stocks” that use the recoil of a semiautomatic firearm to rapidly pull the trigger. This modification essentially mimics the fully automatic firing of a machine gun. On March 23<sup>rd</sup>, 2018 the Attorney General proposed a new ruling that would ban bump stocks. In April, VSA worked with the City to draft a letter to the Attorney General supporting his proposal and citing further justification for the regulation. As a result of this type of public response to the proposed ruling, the Trump administration imposed a bump stock ban in December 2018. At a Justice Department briefing, an unnamed senior official said owners of the devices have until late March to either destroy them or turn them in to the Bureau of Alcohol, Tobacco, Firearms and Explosives without compensation. Given that as many as 520,000 bump stocks have been sold since 2010, it's unlikely all will be accounted for, and a gun-rights group is already threatening to sue the federal government.

An important aspect of the gun violence debate are efforts to improve mental health care as it related to individuals purchasing guns. In December 2016, President Obama signed into law the 21st Century Cures Act, which includes a number of provisions related to healthcare, mental health, and addiction. Among other things, the bill reauthorizes several key mental health and substance abuse programs, such as the Community and Mental Health Services block grant, the Substance Abuse Prevention and Treatment block grant, and the Mentally Ill Offender Treatment and Crime Reduction Act. It also includes a provision to strengthen the Mental Health Parity and Addiction Equity Act, which was passed in 2008 and bans health insurance providers from imposing greater restrictions on mental health and substance abuse care than on physical care.

This month, House Democrats are expected to introduce a proposal to require universal background checks for gun sales Speaker Nancy Pelosi (D-Calif.) and Rep. Mike Thompson (Calif.) — who heads up a Democratic task force on gun violence are supporting the bill. The Democratic proposal would require federal background checks on all gun sales, including private transactions. There will be some small exemptions to those checks, such as transfers between family members, or temporary use of a gun for hunting. Gun-control groups estimate that roughly one-fifth or more of gun sales don't include background checks. With a Democratic majority in the House now, passage of the bill is nearly guaranteed, and marks the first major congressional action on gun control in years. However, Senate Republicans will most likely not support the legislation.



POSITION: **Support** legislation that bans high-capacity assault weapons. **Support** legislation that restricts the sale of firearms and requires thorough background checks and licensing. **Support** legislation that responsibly expands treatment options for the mentally ill.



## **FEDERAL ISSUE: School Vouchers**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** The concept of school vouchers is to allow parents to use public funds to pay for some or all of their child’s private school tuition, in some cases, even religiously affiliated schools. Most often, vouchers are created and distributed by state governments.

Voucher programs are politically contentious. Opponents contend that private-school vouchers pull down the education system as a whole -- widening achievement gaps and exacerbating segregation -- while only providing limited improvements to student performance. Proponents of school choice say the current network of traditional public schools fails to accommodate children with varying degrees of aptitude and learning styles and that parents should have more choice in between private and public schools that are supported with federal funding.

The 2019 President’s budget requests \$1 billion to create a new “opportunity grants” program that states could use to help create and expand private school voucher programs. (The phrase “school voucher” does not appear in the proposal). Another \$500 million — a major increase from last year — would go to expand charter schools and \$98 million to magnet schools. The proposal would also hold steady the funding students with disabilities through the Individuals with Disabilities Education Act. Congress did not support the first two initiatives in the 2019 Department of Education Appropriations but maintained funding for students with disabilities and associated programs.

Congressional opposition has come from lawmakers who represent rural states and see little benefit in school choice programs when so few alternatives to traditional public schools exist in their communities. As structured, critics say, a grant plan proposed by DeVos would have amounted to a windfall for states that already have these programs. With the House now being controlled by the Democrats, there is little chance that school vouchers will be re-introduced. However, proponents for the programs are seeking other ways to promote public vs private school choice. One such way that has been discussed is to offer in the next tax package a federal tax credit for donors to nonprofit groups that provide private school scholarships.

VSA will continue to track and monitor any new developments related to school voucher in 2019

**POSITION:** *Oppose* federal efforts to expand school voucher programs.



## **FEDERAL ISSUE: Electronic Smoking Devices**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** The use of electronic smoking devices (also known as e-cigarettes) has risen rapidly in recent years. However, e-cigarettes are currently unregulated by the U.S. Food and Drug Administration (FDA), despite the growing warnings about their long-term effects on individual and public health. Because of this, there are no safety requirements for what goes into an e-cigarette. In addition, while e-cigarettes do not produce smoke like traditional cigarettes, they do expose others to secondhand emissions and little is known about these emissions or the potential harm they may cause. The use of e-cigarettes among teens is rising and these devices have now become the most commonly used tobacco product among U.S. middle school and high school students, according to a 2018 report from the U.S. Centers for Disease Control and Prevention.

The City of Coconut Creek is committed to protecting the health and safety of its residents and took action to locally regulate the use of e-cigarettes. In July 2014, the City approved a zoning in progress for businesses that sell e-cigarettes in order to warn potential investors that changes to current law would be coming. Then, in February of 2015, the City passed an ordinance prohibiting the use of e-cigarettes in traditionally smoke-free locations, such as schools, libraries, indoor workplaces, and city-controlled buildings, among others.

Meanwhile, the FDA released a proposed rule in April 2014 to extend its authority to cover additional items that meet the definition of a tobacco product, including e-cigarettes. Under the proposed rule, these “newly deemed tobacco products” would be subject to the following requirements:

- Minimum age and identification restrictions to prevent sales to underage youth;
- Mandatory health warnings on the package;
- Prohibition on vending machines sales;
- Registration with the FDA and the reporting of ingredient lists;
- Only marketing new tobacco products after FDA review; and
- No distribution of free samples.

In July of 2017, the FDA announced that they were delaying the rule, extending the deadline to submit applications for specifically non-combustible products, such as e-cigarettes, to August 8, 2022. The revised timeline will allow the FDA to develop product standards, particularly regarding battery issues and the exposure of children to liquid nicotine. The FDA also stated they were focusing on regulating nicotine and directed the Center for Tobacco Products to develop a comprehensive nicotine regulatory plan premised on the need to confront and alter cigarette addiction.

UPDATE: On July 17<sup>th</sup>, 2018, the American Association for Cancer Research (AACR) held a congressional briefing to update policymakers and the public on the latest scientific evidence related to e-cigarettes and to start a dialogue about challenges and potential solutions in prevention of youth vaping. The briefing was co-sponsored by Senator Dick Durbin of Illinois and Representative Jackie Speier from California. A key source of evidence discussed during the briefing was the National Academies of



Sciences, Engineering, and Medicine (NASEM) report titled Public Health Consequences of E-cigarettes, which presents consensus findings from a comprehensive and systematic review of over 800 published scientific studies.

As regulations are considered at the federal level and more research is conducted it is important to note that current FDA regulations require that tobacco products introduced to the U.S. market over the past decade must show a net public health benefit. In considering to this public health effect, a product must pose less risk to users than combustible tobacco cigarettes. Additionally, if a product causes more people to start harmful tobacco use, or causes fewer people to quit tobacco use, a product would be kept off the market. So separate from the health effects of e-cigarettes, the tobacco control field must pay close attention to the effects of e-cigarettes on starting and quitting combustible tobacco products

Scientifically based findings that address these FDA regulatory conditions will drive any further federal policy or legislation in 2019.

POSITION: **Support** the creation of federal regulations for e-cigarettes and other vapor producing devices.



## **FEDERAL ISSUE: Infrastructure Investment**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** Traditionally, Congress has invested in infrastructure via a number of methods, primarily through legislation or programs like transportation authorizations, Federal Aviation Administration authorizations, Army Corps of Engineers, revolving loan funds, through the tax code via bond programs, or earmarks prior to 2009. The last big influx of new and unexpected investment in infrastructure occurred via the 2009 Stimulus bill, which, among other things provided \$105.3 billion for infrastructure, including \$48.1 billion on transportation, \$18 billion on water, environment, and public lands, and the remainder on government buildings, telecommunications and broadband, and energy infrastructure.

Despite the Stimulus (American Recovery and Reinvestment Act) funding, aging infrastructure continued to be a national issue as federal appropriations for infrastructure since that time has not kept up with the need. The American Society of Civil Engineers said in its latest report that \$3.6 trillion was needed to bring all segments of U.S. infrastructure up to a state of good repair.

President Trump has made infrastructure investment a priority for his Administration and submitted a plan to Congress in early 2018 to invest \$1 trillion in infrastructure over ten years. Key elements of the plan are: block grants for rural areas, money for transformational projects, and infrastructure financing programs (think the water state revolving loan funds, WIFIA, or TIFIA for example), along with permit reforms and streamlining.

In July 2018, Chairman Schuster of the Transportation and Infrastructure Committee released draft legislation designed to spark a national conversation and illustrate to policymakers what a comprehensive infrastructure plan can look like in legislative language. It also addressed the key issue of how to pay for the plan by recommending a temporary increase in the fuel tax and other transportation fees.

The new 2019 Congress is expected to further pursue an "Infrastructure Investment Plan" led by new Congressman Peter DeFazio from Oregon who is the new Chairman of the Transportation and Infrastructure Committee. There is optimism for progress this year as this is an issue that has bipartisan support and Rep DeFazio has already released a statement that he plan to have legislation drafted and passed by the House within the first six months of 2019. He is planning to propose a \$500 billion bill for investments in highways, transit, airports, and water. Speaker Pelosi has stated that she wants to pursue an infrastructure measure as well.

Working with the City, VSA will ensure that infrastructure investments that meet local needs will be part of their advocacy strategy in 2019.

**POSITION:** *Support* new federal investment in infrastructure. *Support* all opportunities to secure funding for Coconut Creek's infrastructure priorities.



## **FEDERAL ISSUE: Transportation Authorization**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** After the passage of several short-term authorizations following the expiration of MAP-21 in 2014, Congress finally passed, and the President signed, a five-year surface transportation authorization called the Fixing America's Surface Transportation (FAST) Act. The FAST Act generally maintains many of MAP-21's reforms, but makes a few changes to existing surface transportation programs, as well as slightly increases funding for those programs.

One of the most significant changes within the FAST Act is combining the Transportation Alternatives Program (TAP) into the newly created Surface Transportation Block Grant Program, which replaces the old Surface Transportation Program (STP). TAP projects include a variety of bicycle, pedestrian, and environmental activities, but this change to the program could allow up to 50 percent of TAP funds to be diverted to more traditional STP-eligible projects, mainly highway initiatives. The FAST Act also caps annual funding for TAP at \$850 million and does not allow it to grow with inflation like most other programs in the bill.

Recreational trails and other motorized and non-motorized transportation programs are important to the City of Coconut Creek in helping to create a more cohesive community and for the general improvement of its multi-modal transportation network. While the FAST Act gradually increases the amount of STP funding that will be sub-allocated to local communities - in this case, the Broward MPO – there are concerns about a further decrease in funding for alternative transportation initiatives under this change to TAP.

Positively, the FAST Act also includes a provision related to Complete Streets, which requires state Departments of Transportation and local MPOs to consider all users of the roadways, such as bicyclists and pedestrians, when designing and constructing projects. The Broward County MPO is pursuing a Greenways and Complete Streets initiative throughout the County, including in Coconut Creek, and the City is strongly supportive of efforts to make the roads effective and safe for all users.

Lastly, the City of Coconut Creek is strongly supportive of mass transit initiatives, including high-speed rail. While the FAST Act does not specifically include high-speed rail, it does increase formula funding for federal public transit programs by approximately 10 percent in FY 2016, and increasing slightly each year after that to adjust for inflation. Funding for many new mass transit improvements is provided through the Capital Investment Grants Program. In FY 2018, the Trump Administration proposed only \$1.2 billion for Capital Investment Grants, which includes New Starts, Small Starts, and Core Capacity projects. This is a decrease from the FY 2017 level of \$2.4 billion. However, the Congress restored the funding level to \$2.6 billion in their 2018 Appropriations cycle.

In developing the FAST Act, Congress did not address the need for a long-term, sustainable plan to finance our nation's transportation infrastructure. Fuel taxes, which provide most of the money for surface transportation, do not provide a solid long-term foundation for generally desired transportation funding growth, even if Congress were to raise them modestly. In 2019, Congress will begin the





development of a new transportation bill as the FAST Act will expire in 2020. This will coincide with the efforts within the same Committee (House Transportation and Infrastructure) to develop an Infrastructure Investment Bill. Finding a source of revenue will be at the center of the discussion/debate for these two pieces of legislation in 2019. This will include the merits for replenishing the Highway Trust Fund by raising the gas tax which hasn't been raised since 1997.

VSA will work closely with the City to track and support these discussions with a focus on creating additional opportunities both through the State and directly through competitive grants for transportation investment within the City during 2019.

POSITION: **Support** efforts to enhance federal transportation revenue streams. **Support** adequate funding of transportation alternatives programs, such as bicycle, pedestrian, and trails projects. **Support** adequate funding of federal public transit programs, including high-speed rail. **Support** any and all opportunities to secure funding for City of Coconut Creek priorities via the FAST Act or other means of transportation funding.



## **FEDERAL ISSUE: Domestic Discretionary Spending Pressure**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** The Trump Administration's budget proposals have shown a shift from some domestic spending programs to military and other priorities. The 2019 proposed budget continued to follow this pattern with an increase to the VA, Health and Human Services, NASA, and Defense with off-setting cuts to EPA, Housing and Urban Development, Labor, Education, and Justice.

More specifically, the cuts that apply to municipal programs include:

- Eliminating/Reducing FEMA state and local grant funding by \$667 million including Pre-Disaster Mitigation Grants and the Homeland Security Grant Program, including the Urban Area Security Initiative program (UASI). The budget also calls for a 25% non-Federal match for FEMA preparedness grants that currently do not require any match.
- Eliminating the Community Development Block Grant program (CDBG)
- Eliminating HOME, Choice Neighborhoods and the Self-help Homeownership Opportunity Program
- Eliminating an additional \$490 million in Department of Justice programs.
- Eliminating funding for the EPA's Sustainable Materials Management Program and Waste Reduction Model.

Given the Administration position on these programs, VSA will need to continue to work with the City to advocate for restoration of these programs and their funding with Congress.

Another concern in 2019 will be the threat to discretionary spending by sequestration. The Budget Control Act (passed in 2011) established budgetary caps in law for discretionary spending – one cap for defense accounts and another for non-defense accounts – through FY 2021. The penalty for spending over the caps is a sequestration of funds to ensure spending is in line with the budgetary caps established in law. Sequestration would result in a percentage-based cut to every account, program and project funded by discretionary spending. This was offset the last two years with a budget resolution agreed to and passed by both the House and the Senate. Currently there is no budget resolution for this year when the 2020 appropriations will be drafted.

**POSITION:** *Monitor* proposed cuts to non-defense discretionary programs of importance to the City of Coconut Creek.



## **FEDERAL ISSUE: Remote Sales-Tax Legislation**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** Currently, retailers are only required to collect sales tax in states where they have brick-and-mortar stores. The burden then falls to consumers to report to state tax departments any sales taxes they owe for online purchases. Often, due to complex reporting requirements, consumers do not report those purchases when completing their tax returns. As a result, local retailers are at a competitive disadvantage because they must collect sales taxes while out-of-state retailers, including many large online and catalog retailers, essentially give their customers a discount by collecting no state or local sales taxes.

Therefore, the current sales tax system is perceived as being unfair to brick-and-mortar retailers that employ local residents, including local stores as well as national chains like Best Buy or Home Depot. The lost revenue is also a drain on local governments. In 2014, uncollected sales tax was estimated to have cost local governments \$23 billion nationwide.

On June 21, 2018, the U.S. Supreme Court ruled in *South Dakota v. Wayfair* that states and local governments can require vendors with no physical presence in a state to collect and remit existing sales taxes on remote or online purchases. This case asked the court to review its 1992 decision in *Quill v. North Dakota*, which upheld the “physical presence” standard established in 1967.

This ruling enables each state to decide whether to enforce sales tax collection on remote purchases. Under this framework, a state may pass legislation requiring remote sellers to collect these taxes, even if a vendor has no physical presence in the state. If state laws are challenged in court, each state Supreme Court would then determine whether the law is enforceable and consistent with federal law. For cities, lost revenue from online and remote sales means less money for basic services, such as roads and law enforcement officers.

Last year, bipartisan bills were considered in both the Senate and the House addressing this issue: the Marketplace Fairness Act (MFA) in the Senate (S. 976) and the Remote Transactions Parity Act (RTPA) in the House (H.R. 2193). However they were not passed and lost some support after the Supreme Court ruling. It is unclear at this time if the new 116<sup>th</sup> Congress will take up this issue in 2019.

**POSITION:** *Monitor* any federal legislation that requires companies making catalog and internet sales to collect and remit the associated taxes. *Support* federal tax policies that maintain revenue streams to local governments.



## **FEDERAL ISSUE: Tribal Legislation and Regulation**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** The Seminole Tribe of Florida opened a 30,000 square foot casino in Coconut Creek in 2000, the fifth Seminole gaming center in the state. The casino is located on five acres of tribal land on Northwest 54th Street, just east of State Road 7. The casino's plan is to create a destination area offering a full-service hotel, extensive gaming space, and several restaurants. Over the years, the Tribe has sought to add more land to trust in the City, most recently seeking an additional 40 acres.

Van Scoyoc Associates monitors tribal legislation and regulations to determine if they could impact the City of Coconut Creek. As an example, in 2015, we identified legislation that was introduced that could have impacted the City's relationship with the Seminole Tribe. H.R. 538, the Native American Energy Act introduced by Rep. Don Young (R-AK), is ostensibly meant to "facilitate the development of energy on Indian lands by reducing Federal regulations that impede tribal development of Indian lands."

However, we raised a concern about Section 4 of the original bill that said:

*"For any major Federal action on Indian lands of an Indian tribe requiring the preparation of an environmental impact] statement..., the statement shall only be available for review and comment by the members of the Indian tribe and by any other individual residing within the affected area.*

*“(2) REGULATIONS.—The Chairman of the Council on Environmental Quality shall develop regulations to implement this section, including descriptions of affected areas for specific major Federal actions, in consultation with Indian tribes.”*

Many tribal actions require environmental surveys be completed prior to implementing various actions. These environmental assessments or impact statements offer local government and others the opportunity to comment on proposed tribal actions prior to implementation. In the legislation, there was no clear understanding of what "other individual residing within the area" was. This could have limited the opportunity for the City (and others) to comment on a wide variety of actions that could otherwise impact the community.

Prior to passage in the House, an amendment was passed on the floor to do away with this objectionable provision. The bill's sponsors did not realize they could unintentionally be limiting the opportunity of communities to comment on a broad number of significant actions nearby, not just those related to energy development (which was the underlying purpose of the bill).

We will continue to monitor legislative activity in the Indian Affairs Committees during the new 116<sup>th</sup> Congress.

**POSITION: *Monitor* tribal legislation and regulations that could impact the City of Coconut Creek.**



**FEDERAL ISSUE: Federal Communications Commission Rulemaking on Streamlining Deployment of Communications Facilities and Wireless Infrastructure in the Public Right of Way**

**BACKGROUND:** Many states throughout the nation, including Florida through the enactment of the “Advanced Wireless Infrastructure Deployment Act,” effective July 1, 2017, have recently enacted regulations to streamline the process for siting communications facilities in the public right of way. Those efforts were mirrored and amplified at the federal level by the Federal Communications Commission (“FCC”) through its adoption of the Declaratory Ruling and Third Report and Order, WC Docket No. 17-84 and WT Docket No. 17-79 (“Third Report and Order”) on September 26, 2018, set to become effective on January 14, 2019.

The effects of the Third Report and Order are far-reaching as it imposes limits on local subject matter review, time for processing permits, and collection of costs associated with professional review of wireless communications facilities occupying local rights of way. Going beyond the Florida regulations, the FCC’s Third Report and Order invalidates the state exemptions applicable to the rights-of-way owned by Florida Department of Transportation and those located in retirement communities, historic preservation districts, and areas covered by covenants or restrictions of homeowners’ associations. In addition, the Third Report and Order seems to suggest a more stringent shot-clock wherein all professional disciplines reviewing a permit for wireless facility deployment must deliver a complete review for a ready-to-build facility within the allotted timeframe of either 60 days or 90 days depending on the nature of the application.

Above all, the Third Report and Order provides a very broad interpretation of the Telecommunications Act of 1996 and supports legal action against local jurisdictions whose local codes and regulations may allegedly have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service. As a result of the state and federal actions on the subject matter, the City is tied between two (2) legal frameworks and it is unclear how they will interact since the federal regulation does not explicitly preempt state or local laws. This will bring about more litigation, rather than hasten deployment of the technology. The City is currently engaged in litigation, joined by other local jurisdictions throughout the nation, seeking appellate review of the FCC’s Third Report and Order. It is believed that a similar effort is underway to challenge portions of the state statute to resolve these mounting issues.

This past year, VSA worked with the City to oppose actions by the FCC and the Administrations proposed rulings that reduced local oversight and control on broadband infrastructure and will continue to track and respond to any additional actions by the FCC which create these same outcomes..

**POSITION:** The City of Coconut Creek **opposes** any legislation that increases the FCC’s authority over the deployment of communications facilities and wireless infrastructure in the public right of way, and any rulemaking by the FCC that overreaches beyond its clear federal mandate in this arena.



**FEDERAL ISSUE: International Diplomacy**

BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK: The City of Coconut Creek supports the use of diplomacy to resolve conflicts between nations. The Bulletin of the Atomic Scientists has moved the hands of its “Doomsday Clock” to 2.5 minutes to midnight – the closest it’s been since 1953, stating, “Over the course of 2016, the global security landscape darkened as the international community failed to come effectively to grips with humanity’s most pressing existential threats, nuclear weapons and climate change,” and warning that, “Wise public officials should act immediately, guiding humanity away from the brink.”

To address these tensions, increase the use of diplomacy and prevent any loss of life that would result from future conflict, Senator Todd Young (R-IN) introduced the National Diplomacy and Development Strategy Act in 2017. The bill was referred to Committee and did not progress any further in the Senate.

Any new 2019 legislative proposals would come out of the Senate Foreign Relations Committee of which Senator Marco Rubio is a high ranking member. VSA will continue to work with Senator Rubio’s office to monitor any new legislation that will support diplomatic measures to resolve potential conflicts.

Likewise, we will also monitor the House Committee on Foreign Affairs and any new proposals.

RECOMMENDED POSITION: Support the use of diplomacy to resolve international conflicts.



## **FEDERAL ISSUE: Transparency**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** Government transparency is vital to providing accountability and improving trust in government by citizens. Each year, over \$3.7 trillion is spent by the federal government. It can be difficult to track that spending due to disparate and incomplete sources of data. To address this concern in 2014, the Digital Accountability and Transparency (DATA) Act of 2014 was signed into law. The DATA Act requires the federal government to set data standards across departments, to regularly report on more federal funds than in the past, and to regularly review data quality. The process of agreeing upon and implementing those policies and procedures, led by the Treasury Department and the Office of Management and Budget (OMB) took several years. In May of 2017, federal agencies began officially reporting data in compliance with the DATA Act. In November of 2017, the Government Accountability Office (GAO) completed their first review of that data and found several gaps, inaccuracies and varied interpretations of how data was reported. GAO has since made recommendations that OMB and Treasury clarify their guidance, work with agencies to produce more consistent data and disclose any known data quality issues. These recommendations are currently being reviewed and implemented by OMB and Treasury.

Meanwhile, in 2016 Congress passed and President Obama signed, the Freedom of Information Act (FOIA) Improvement Act which aims to improve public access to federal records. The law requires increased online disclosure of records and limits the ability to withhold or delay the release of records. The law is still being implemented by the 115 federal agencies that are subject to FOIA. In Fiscal Year 2017, federal agencies received over 788,000 FOIA requests, which set a new record for the second year in a row.

In addition to the issues of access to records and financial details, there have been concerns for citizens and members of Congress about the transparency of other governments programs. Recently, these concerns have centered on the use of the Foreign Intelligence Surveillance Act (FISA) to monitor the activities of American citizens, rather than solely to intercept calls and emails from suspected foreign terrorists without a warrant. A bill to extend the program to 2023 was signed into law by the President on Jan 19, 2018.

For the beginning of the new Congress this year (2019), we expect that Congressman Mike Quigley (IL-05), co-founder and co-chair of the Transparency Caucus, will re-introduce the *Transparency in Government Act* (TGA) to increase access, accountability, and transparency at every branch of the federal government.

**RECOMMENDED POSITION:** *Support* efforts to increase government transparency and accessibility of public records.



## **FEDERAL ISSUE: National Flood Insurance Program**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** Congress established the National Flood Insurance Program (NFIP) in 1968 to address the nation's flood exposure. Private insurance companies at the time claimed that the flood peril was uninsurable and, therefore, could not be underwritten in the private insurance market. A three-prong floodplain management and insurance program was created to (1) identify areas across the nation most at risk of flooding; (2) minimize the economic impact of flooding events through floodplain management ordinances; and (3) provide flood insurance to individuals and businesses. In the City of Coconut Creek, there are 2,065 NFIP policies for both homes and commercial properties.

Until 2005, the NFIP was self-supporting, as policy premiums and fees covered expenses and claim payments. Today, the program is roughly \$25 billion in debt due to a number of large flood events that have occurred over the past 5-10 years.

### *2018 Congressional Approach*

The House Financial Services Committee drafted and passed several bills to address the reauthorization of NFIP. The proposals have many areas of concern for consumers and local governments. Specifically, the package of bills would:

- Raise the minimum average premium increase to 8% from 5%.
- Increase a variety of surcharges for all policyholders in the NFIP while not holding the private insurance market to the same standards
- Changes the definition of a multiple loss property and places additional restrictions on policyholders for this category, increasing their expenses and limiting their choices for coverage
- Increases the regulatory burden on local governments by requiring communities with more than 50 repetitive loss structures (defined as properties that have had two or more claims totaling \$1,000 in the past ten years) to map the properties and surrounding infrastructure and then enact a FEMA approved mitigation plan. The communities would then be subject to potential sanctions from FEMA if sufficient progress was not made on the plan. These sanctions are not clearly defined in the bill.

Despite the uncertain funding situation for the Federal government at the end of 2018, the House and Senate did take action to extend the NFIP through May 31, 2019. The President signed the separate bill into law on December 23rd to keep the program running without interruption. We expect that NFIP reforms will be taken up with the new Congress in 2019 with continued proposals to leverage participation by the private insurance industry and adjust rates to policy holders.

**POSITION:** *Support* efforts to improve the National Flood Insurance Program for the benefit of all participants.





## **FEDERAL ISSUE: Federal Marijuana Policy**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** In 2016, the voters of Florida passed a state constitutional amendment to allow the use of medical marijuana. Subsequently, the Office of Compassionate Use under the Florida Department of Health has begun implementing a state-managed medical marijuana program. Additionally, the state legislature has passed limitations on the zoning of dispensaries and local governments have taken action to either allow or ban dispensaries within their boundaries. The City of Coconut Creek is one of the few jurisdictions within Broward County that allows dispensaries.

In January of 2018, the Department of Justice (DOJ) issued a new memo on federal marijuana enforcement. Essentially, this memo rescinds the so-called “Cole Memo” issued by the Obama Administration in 2013 that provided guidance to prosecutors and law enforcement to direct their focus away from enforcement in states where marijuana had been legalized. The new memo directs all U.S. Attorneys to enforce federal law and follow DOJ’s principles in determining which cases to prosecute, rather than taking into account state law. In March 2018, Attorney General Jeff Sessions offered more clarification by stating that Federal law enforcement lacks the resources to take on ‘routine cases’ and will continue to focus on drug gangs and larger conspiracies.

The DOJ is currently prohibited from using resources to interfere with state run medical marijuana programs, such as the one in Florida, as a result of a provision in the Fiscal Year 2017 omnibus appropriations bill (which was also included in the FY 2015 and 2016 bills) that has been extended along with each of the recent continuing resolutions. The provision is included in the Senate Commerce, Justice and Science 2018 appropriations bill.

At the end of 2018, Senate Majority Leader Mitch McConnell added a provision to the 2018 Farm Bill that would lift the federal government’s longstanding ban on industrial hemp. This movement on the issue by the Senate establishes some flexibility to the medical marijuana debate going into 2019 and we expect the Democratic-led House to introduce new bills this year. Their goal will be to recognize that marijuana has an accepted medical use and that it is the states’ responsibility to set medical marijuana policy.

**POSITION:** *Monitor* any impacts federal marijuana policy may have on Florida’s medical marijuana program



**FEDERAL ISSUE: Thin Blue Line Legislation**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** “Think Blue Line” legislation was introduced in 2017 as a result of a significant increase in law enforcement fatalities (i.e. 56%) in 2016 in an effort to enhance punishment and sentencing for people convicted of fatally shooting law enforcement officers.

The legislation would add “killing a law enforcement officer” to the list of aggravating factors in federal death penalty cases.

Co-sponsors to date supporting this legislation have been Republicans who argue that this legislation is a necessary measure to address escalating threats to public safety. Opponents cite that this legislation is unnecessary and duplicative to improving law enforcement and community relations and add that all 50 states currently contain the provision on a state level.

In the beginning of the 115<sup>th</sup> Congress in January 2017, the “Thin Blue Line Act” was introduced by Representative Buchanan (16, FL) and passed by the House in May 2017. It did not make any further progress in the Senate during the 2-year period of the 115<sup>th</sup> Congress.

On January 3<sup>rd</sup>, 2019, the 116<sup>th</sup> new Congress took up the bill as it was reintroduced by Representative Buchanan. It is expected now to be assigned a Committee for further consideration.

**POSITION:** *Monitor* Thin Blue Line legislation and report its consideration by Congress and provisions in its final bill form.



## **FEDERAL ISSUE: Sanctuary City Issue**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** The Trump administration has issued several executive orders since taking office. Among these orders is one that, in part, seeks to restrict funding to “sanctuary cities.” Although the City of Coconut Creek is not a sanctuary city, there is some concern that the City may be negatively impacted if other jurisdictions meet the definition of a sanctuary jurisdiction.

On January 25, 2017, President Trump issued an executive order stating that the Attorney General and the Secretary of Homeland Security shall ensure that jurisdictions that are not willfully complying with 8 U.S.C. 1373 are not eligible to receive Federal grants, except as deemed necessary for law enforcement. Noncompliance with 8 U.S.C. 1373 is used as the definition of a sanctuary city in the executive order. On March 27, 2017, Attorney General Sessions announced at a press conference that the Department of Justice would apply this standard to their grants and would retroactively apply it to jurisdictions that were previously awarded funds and that willfully violate section 1373.

Legal challenges have been filed regarding the constitutionality of the executive order and its applicability to grants that have already been awarded. Several jurisdictions have also reaffirmed their support of sanctuary policies. These legal challenges are currently preventing the release of the Department of Justice’s FY 2017 Byrne JAG awards and there is some concern that this will impact the release of funds through the COPS program as well. The Attorney General has recently requested additional documents from 23 jurisdictions regarding their compliance with section 1373 under the threat of a subpoena.

As recently as last November, a federal judge in Manhattan made a decision that the President’s efforts to block funding was unconstitutional because it violated the 10<sup>th</sup> Amendment. He added that local law enforcement has the right to decide how to meet their local public safety needs.

**POSITION:** *Monitor* Sanctuary City policies and potential impacts to the City of Coconut Creek.



## **FEDERAL ISSUE: Public Safety Programs**

**BACKGROUND; HOW IT MAY AFFECT THE CITY OF COCONUT CREEK:** Federal grant funding for many Department of Justice (DOJ) and Department of Homeland Security (DHS) programs are provided as block grants with each state receiving a certain amount of funding, generally linked to population. That funding is then passed through to local jurisdictions to help support police, fire, emergency management, and homeland security functions. Examples of these formula programs include the Emergency Management Performance Grant (EMPG) and the Byrne Justice Assistance Grant (JAG).

In other instances, funding from federal programs is made available to local governments via competitive grant solicitations. Competitive program funds can be used to hire police officers through Community Oriented Policing Services (COPS) or firefighters through Staffing for Adequate Fire & Emergency Response Grants (SAFER), and purchase equipment through the Assistance to Firefighters Grant (AFG). There is also another category of grants that are distributed to certain recipients based on specific criteria, such as the Urban Area Security Initiative (UASI), which provides funds to eligible regions to help communities prepare for, prevent, respond to, and recover from potential attacks and other hazards.

The City of Coconut Creek has benefited from several of these federal programs in the past, while other programs offer competitive grant opportunities from which the City may seek funds. Most recently, the City applied for an FY 2018 AFG grant for an emergency response vehicle and operations and safety equipment. That application is still pending at this time.

FY 2019 funding for DOJ and DHS programs are still pending approval by the Congress as the time of this report but proposed budgets by the House and Senate are at similar levels to 2018.

**POSITION:** *Support* continued adequate funding for the wide variety of DOJ and DHS grants, i.e., Community Oriented Policing Services, Byrne Justice Assistance Grants, Emergency Management Preparedness Grants, Assistance to Firefighters Grants, Staffing for Adequate Fire and Emergency Response Grants, Urban Areas Security Initiative grants, and other security-specific grants. *Support* the City of Coconut Creek's applications for these funds.