

Testimony of
Patrice Douglas
Mayor, City of Edmond

On Behalf of the City of Edmond, Oklahoma
Before the House Committee on Oversight and Government Reform
Regarding Unfunded Mandates to Municipal Governments

Tuesday, February 15, 2011



The City of Edmond, Oklahoma

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Thank you Mr. Chairman. I appreciate you and all of the members of this committee for allowing me to participate in this important hearing. I am Patrice Douglas, Mayor of the City of Edmond, Oklahoma, and I am pleased to appear today to offer comments on behalf of the City of Edmond on unfunded mandates and regulatory overreach. I serve on the Board of Directors for the Oklahoma Municipal League, and on the U.S. Conference of Mayors Standing Committees on Energy and Tourism.

I am here at the request of Congressman James Lankford, and have been asked to explain, from the City of Edmond's perspective, about the unfunded mandates we face as we budget in these very difficult economic times. Thank you for holding this hearing and for considering cities like Edmond as you make decisions.

Edmond, Oklahoma – A Brief Description

Edmond borders the north side of Oklahoma City, and is a city of 86,000 people, with our school district encompassing more than 110,000, making Edmond the 6th largest city in Oklahoma. Geographically, we encompass 90 square miles, with 46 miles of that being fully developed. We have seen phenomenal growth in the last decade. Our general fund budget is approximately \$46 million dollars, with our entire budget including our utility operations being \$223 million dollars.

Edmond, as all Oklahoma cities, is financed predominately by sales tax. Last year, for the first time in at least 20 years, we had a decline in sales tax revenue. Edmond's sales tax revenue declined by 6% , which was 9% below our budget. Many of my sister cities were forced to lay off fire and police personnel, to furlough employees for 7 days or more, and to eliminate any new positions. To some nearby Oklahoma cities, this meant a reduction in workforce of between 5-10% of workforce.

Edmond prioritized people. We did not have layoffs, or furloughs. In this fiscal year, our sales tax revenue has leveled off but has not recovered. To balance our budget, as required by the Oklahoma Constitution, we eliminated pay increases, delayed several infrastructure projects, cut expenses and left vacancies unfilled. The infrastructure projects delayed should be started this year – but our revenue does not currently support moving forward. We have begun the budgeting process for our next fiscal year, and expect to see tougher negotiations with our police, fire and civilian unions.

Unfunded Mandates Reform Act

We commend you for the leadership in passing the UMRA, Unfunded Mandates Reform Act of 1995. Mayors wholeheartedly support this legislation, and urge you to tighten this act further. Each time we face an unfunded mandate, we are forced to choose between raising taxes, cutting services or delaying needed infrastructure projects. Each time we get an unfunded mandate, it requires locally-elected officials to disregard the will of our voters to meet the standards imposed by Congress.

In the 2011 Metro Agenda of the U.S. Conference of Mayors, cities specifically call for new legislation to strengthen the federal-local partnership and further restrict the ability of Congress and the Administration to impose unfunded federal mandates. We also ask Congress and the Administration to determine the cost of current unfunded mandates and to provide a coordinated and national strategy regarding the prioritization and implementation of those mandates given the monetary constraints of local government.

Again, I thank you for your commitment to the UMRA, and encourage you to continue your search for ways to enhance and further the purpose behind this important legislation.

Unfunded Mandates Facing Cities Like Edmond, Oklahoma

1. Stormwater Quality

In 1990 the Environmental Protection Agency promulgated regulations that required water-quality based stormwater programs to address the quality of stormwater runoff from certain industries, construction activities, and municipalities of 100,000 or greater.

“Phase I” regulations were incorporated into the existing National Pollutant Discharge Elimination System (NPDES) permit rules. In 1999 the EPA enacted similar regulations, referred to as “Phase II”, affecting municipalities with under 100,000 populations. As a result, the City of Edmond was required to obtain permit coverage under this EPA program through the Oklahoma Department of Environmental Quality (ODEQ).

These “Phase II” municipalities and other entities developed comprehensive Stormwater Management Programs that encompassed six “Minimum Control Measures” best described as six main areas of focus, to address the quality of stormwater runoff being generated from within their boundaries. For the City of Edmond the activities include public education and outreach programs, public participation and involvement, illicit discharge detection, elimination and construction site runoff control, post-construction stormwater management in new development and redevelopment, and pollution prevention for municipal operations.

Extensive record keeping and annual compliance reports are required on the above measures. The City of Edmond has completed its first five year permit cycle and is in full compliance with this unfunded mandate. The operation of this current program costs the City of Edmond approximately \$400,000 a year.

The EPA is seeking new approaches to stormwater management that will potentially focus more on reducing the overall volume of water that goes into stormwater pipes by having communities manage rainwater where it lands by increasing permeability to decrease runoff. This could also mean regulatory expansion of the Municipal Separate Storm Sewer System (MS4s). The EPA is seeking preliminary input now and will be proposing new regulations in September of this year with a final proposal set for November of 2012. It is anticipated that this cost will increase significantly due to unknown, but expected, additional requirements that will be included in the new EPA/ODEQ Phase II Permit.

For Edmond, and other cities of similar geographic size, the cost could be extreme, while the benefit would be miniscule. It could cause the redesign of stormwater systems in which cities have invested billions of dollars.

Currently, 38 percent of Oklahoma municipalities are under “consent orders” for their water and/or sewer system violations that are driven largely by new EPA regulations. Consent orders translate into massive mandates on municipalities for expenditures for upgrades and new construction which many communities cannot afford. EPA Region VI estimates that \$5.4 Billion dollars will be needed for water and sewer improvements in Oklahoma in the next few years. Many of these are driven by new EPA regulations, and further regulations as suggested for stormwater cannot be shouldered by local governments.

2. Clean Air Act

Ozone is our number one air quality problem in Central Oklahoma, and is an issue of health concern from May to October. Ground level ozone is formed in the summertime by a combination of compounds and chemicals generated by emissions. High ozone levels impact the young and the old, and those with asthma, heart disease and respiratory problems.

Since the issuance of the stricter eight-hour ozone standard in 1997, ozone levels in the greater Oklahoma City metropolitan area have actually declined. Essentially, you can argue that because of this, our air in central Oklahoma has actually become cleaner.

As far as our current emissions inventory, a significant portion of our emissions do come from mobile sources. We are still in full compliance with federal ozone standards, as set by the EPA.

In 2008, as part of a requirement of the Federal Clean Air Act, the EPA reviewed the ozone standard and made it even stricter than the standard introduced in 1997. Despite lowering the standard two years ago, the current administration is considering lowering it again. This edict will likely be announced this summer. Despite the fact that ozone levels have decreased in the past 10 years in central Oklahoma, adherence to the new federal standard will be very difficult, based on our projections from the past three seasons.

The end result would be that our region would be saddled with a “dirty air” designation (non-attainment), along with hundreds of other metropolitan areas. The policy paradox is that we have done everything to keep our air clean, but we still may not be able to maintain our clean air status. Being declared a “dirty air region” would result in an arduous, long process in which we would have to develop an emissions reduction strategy to show that we have the capacity to return our air to “clean air status.” It would also reduce central Oklahoma’s ability to encourage economic development and jobs, and would be extremely costly to businesses coming to this area.

We do not know what standards will be imposed by the EPA. From past history, we can assume implementation of these new and costly regulations will require enormous time and effort to develop the plan, at an unknown cost to our local governments, our citizens and the economic generators that foster

our way of life. We know that it will make locating business in our regions more difficult and costly, with the bottom lines being less job creation.

3. Health Care Reform

Beginning in 2012, under a little-discussed unfunded mandate of the health care reform legislation, local governments like Edmond will be required to report any payment in excess of \$600 for services or merchandise to the Internal Revenue Service on a Form 1099. While the purpose is noble – to collect lost revenue from companies that under-report on tax returns – no serious consideration was given to the accounting and reporting nightmare created by the unfunded mandate. Edmond's accounting and auditing costs have increase by almost 40% in the last nine years with the imposition of additional federal regulation, and we cannot give an accurate estimate of how much this single change will increase our accounting costs, but we do believe it will be significant. Our consultant stated only that it will "lay a heavy burden on employers."

As for the cost of health care for our employees, Edmond is currently in discussion with providers. In past years, Edmond has provided health insurance for employees, and has paid for 75% of dependent coverage. After the passage of the health care reform legislation, our city expects to see an increase of 19.81% (\$600,000 in increase), with 14.51% directly attributable to requirements under the new health care act. We will be required to make other adjustments, which could include a lowering of coverage and increased employee premiums, in order to afford the added expense.

4. Securities and Exchange Commission (SEC) Proposed Rules

On December 20, the Securities and Exchange Commission (SEC) released new proposed rules to implement the "municipal advisor" registration requirement found in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public-Law 111-203, 124 Stat. 1376 (2010)).

Under the Dodd-Frank law, the registration requirement applies to all municipal advisers who provide advice to "municipal entities" and other borrowers involved in the issuance of municipal securities. The advice may be related to derivatives, guaranteed investment contracts, "investment strategies," or the issuance of municipal securities. It also applies to advisers who solicit business from a state or local government for a third party.

As drafted the rule would exempt municipal elected officials and staff from the registration requirement. Not excluded, however, are appointed volunteer members of local government boards or other citizen volunteers. The rulemaking's reach would thus subject citizen board members and other volunteers to federal SEC fiduciary duty, pay-to-play, and other rules, and reporting requirements.

Many states and cities already have statutory provisions concerning the fiduciary responsibility of volunteer board members of their authorities. In our view, the proposed rule would only serve to micro-manage local governments and impose duplicative redundant regulatory burdens as an answer to unsubstantiated and undefined issues.

Practically for cities, registration with its associated costs and burdensome paperwork requirements will have a chilling effect on local governments' ability obtain the highest quality volunteer participation for their municipal entities. With 30 board, commissions and task forces made up of more than 300 citizen volunteers, our boards and commissions are critical to our city. In Edmond, there are at least three volunteer boards and commissions that would be required to comply with these new regulations. There are several other boards that arguably could fall within this definition.

5. Other Miscellaneous Regulations

Homeland Security Presidential Directive #5, as permitted under legislation creating Homeland Security, requires National Incident Management Training.. In order to receive Homeland Security grants, as well as many other federal grants, cities are required to be NIMS-compliant.

Undisputedly, cities need to be prepared for emergencies. In the last year, Edmond had a 500-year flood, an earthquake, and two blizzards. We prepare and train for such emergencies, and design our cities for the safety of our citizens.

But this training should be determined at a local level, and imposed based on what localities see as necessary.

In salary alone, Edmond's direct cost per year for NIMS training is a minimum of \$82,320. This does not include the costs of additional equipment, personnel benefits, the cost of adjustment of work schedules, and delay in necessary city services while employees are training. Edmond's 686 employees must train a minimum of 6 hours per year, for a total of 4116 work hours. We must qualify every year. New training occurs every year, and many are required to take as much as 35 hours. While this direct cost figure may seem low, it equates to at least two full time salaried employees.

Edmond received a small amount of federal dollars for training equipment. It was not sufficient to cover the complete costs of equipment. It did not provide the personnel or resources to complete the training.

Another example of a regulation where benefits do not justify its costs is the cleaning of our city police training gun range. Edmond's gun range, used to train not only our own police officers, but officers from around the state of Oklahoma, must operate under strict restrictions of the EPA to ensure we are handling our explosive material according to Federal standards. Our training must be in strict conformity with federal regulatory guidelines. Edmond completes a remediation process at our gun range every three to five years to remove all lead.

Cities whose police departments maintain gun ranges have been sued for contaminating the ground water by their use of lead bullets. None of these suits thus far have been successful. There is little or no evidence that the lead from bullets at a firing range has ever contaminated the ground water.

Nevertheless, in trying to protect Edmond from liability, we engage in a regular program of remediation. While the intention is good, a cost-benefit analysis does not warrant these remediation requirements.

Thank you again for allowing me to share the views of Edmond, Oklahoma. These examples are only a few of what municipalities face on a regular basis that cause strain on resources, and reductions in services. I am honored to have the opportunity, and am appreciative of your time and consideration.

Mayor Patrice Douglas

Born in Oklahoma, Patrice is a long time Edmond resident. She attended Oklahoma Christian for her undergraduate degree, and then the University of Oklahoma, where she obtained her law degree. She was inducted into the Order of the Barristers.

Patrice practiced law full time for 13 years, as an attorney for both of Oklahoma's high courts, the Oklahoma Supreme Court and the Oklahoma Court of Criminal Appeals. She joined her father's business in 1999.

Working with her father in his company, ACP Sheet Metal, she faced first hand the challenges of small business owners. During her five years at ACP, she served as its vice president and general counsel. Managing a unionized workforce allowed her the opportunity to participate in negotiations of the first collective bargaining agreement after Oklahoma's passage of right-to-work legislation.

With her legal experience and love of small business, banking was a perfect fit. She served as President of SpiritBank, a community bank in Oklahoma, and now leads the Edmond market for a locally-owned Oklahoma bank, First Fidelity Bank.

Community service is her passion. She has been appointed by two governors to serve on four different statewide boards and task forces, including the Oklahoma Department of Human Services Commission, and the Oklahoma Partnership on School Readiness, where she served as chairperson for two terms. Serving two terms for the Edmond Economic Development Authority, she was elected as chair and served in that capacity until October, 2008. She has served on numerous

community and state boards, supporting education, arts, business and at-risk families. She currently serves on the Board of Directors for U.R. Special Ministries, an organization founded by her mother – which has clothed more than 23,000 at-risk children in the Edmond area.

Elected in April 2009, her latest community service is serving as Edmond's Mayor. Since taking office, she has championed in the Edmond City Council the creation of the Small Business Task Force. She has launched a youth volunteerism program, and has stood firm for Edmond's senior citizens to reinstate the senior meal program. Most recently, she led the effort to partner with private and public entities to allow the Medical Examiner's relocation to Edmond, and to build Oklahoma's largest competition swimming pool complex. She has been elected to serve on the Oklahoma Municipal League Board of Directors, and serves on its Task Force on Government Efficiencies.

She will begin her second term as Edmond's mayor in May, 2011.

She was a three-time finalist for Journal Record Woman of the Year. Among other awards, she has been named Outstanding Alumni for the College of Business for Oklahoma Christian University. Most recently, she has been awarded the Kate Bernard Award for Outstanding Public Service.

Family and faith are her focus. Her husband of 22 years, Brent Douglas, is a strategic planning consultant and engineer. Her two sons, Patrick – 15 years old, and Phillip – 13 years old, are the lights of her life. She enjoys hanging out with them, and knows that she is raising a future astronaut and President of the United States. She attends and is involved in her church, Life Church.