

**HSAC Public Conference Call  
to Deliberate/Vote on  
HSAC's Border Infrastructure Task Force  
November 7, 2012  
4:00 pm CT**

- **Judge William Webster**
- **Chief Bill Bratton**
- **Ambassador Jim Jones**
- **Norman Augustine**
- **Chuck Canterbury**
- **Mohamed Elibiary**
- **Jeff Moss**
- **Carie Lemack**
- **Congressman Lee Hamilton**
- **John Magaw**
- **Wilson "Bill" Livingood**
- **Frances Townsend**
- **Mayor Annise Parker**
- **Dr. John "Skip" Williams**
- **Becca Sharp, HSAC Executive Director**

**William Webster:** Good afternoon, this is William Webster, Chairman of the Homeland Security Advisory Council and I hereby convene this meeting.

This is a public meeting of the Advisory Council and we appreciate those members of the public, the government, and the media who have joined us today.

I'd also like to welcome the members of the Homeland Security Advisory Council and the members of the Border Infrastructure Task Force who are on the call today.

The purpose today is to be briefed and deliberate on the recommendations from the HSAC's Border Infrastructure Task Force. Over the past few

months the Task Force held an in-person meeting in Washington, DC and convened several conference calls and heard from 13 matter experts.

The Task Force was led by HSAC member, Ambassador Jim Jones. On behalf of HSAC, I thank the members of the Task Force for all of your efforts, the subject matter experts for their input, and the staff that hosted the meetings.

I'll now turn the floor over to Ambassador Jim Jones who will brief the HSAC on the report.

**Jim Jones:**

Thank you very much Judge Webster and members of the HSAC. Secretary Napolitano tasked the Border Infrastructure Task Force to provide recommendations on enhancing border crossing infrastructure on both our borders with Canada and with Mexico and establishing predictable and equitable mechanisms for project design, financing and implementation by public private partnerships.

The Task Force had a short timeframe to develop this report. Both the Task Force members and the supporting DHS staff were very diligent in order to get this report to you in this timeframe.

Two things were evident from our deliberations. Number one, both of our borders, North and South need more infrastructure and ports of entry in order to be fully efficient for commerce as well as to protect security.

And then number two, if this demand is going to be met it will have to be met largely by public-private partnerships, (PPPs) because our government debt load is just too heavy for the government to finance all of these border needs.

Specifically the Task Force focused on the changes that would need to be made to help make public private partnerships work as well as to look at the mechanisms that could be used to enhance the investment.

The Task Force membership comprised of subject matter experts from both the Northern and the Southern border. In developing the recommendations the Task Force met with several government and private sector experts on conference calls and at in-person meetings in addition to the input that individual Task Force members collected and shared during our discussions.

In determining the 24 recommendations listed in the report, the Task Force sought to answer the eight questions listed in the tasking by Secretary Napolitano. The Task Force sought to provide recommendations that can help streamline the processes of creating public-private partnerships with the goal of promoting continued job creation and enhancing the global economic competitiveness in the United States without sacrificing security.

Enhancing the capacity, the effectiveness and the efficiency of border crossing facilities and operations will expedite the processing of legitimate trade and travel, reducing both the government's cost and the total cross-border trade transaction costs born by the user.

In discussions with subject matter experts from the private sector, the Task Force found that a transparent and predictable legal and regulatory framework and a proven revenue stream are essential components in a successful PPP, whether the projects are funded entirely by the private sponsors or, in addition to government backing and financing.

The Task Force also found that unclear approval processes could hinder a PPP proposal especially when looking at ports of entry where two Federal Governments are involved in the task.

The four common traits that the Task Force identified in successful public private partnerships were first, a clearly defined procurement process and approval system in place that the private sector can rely upon when formulating project bids. Second, there needs to be a clear allocation of risks and responsibilities among the partners. Third, a consensus of political and community support is needed for the project and, finally, tolling levels should be specified in advance in the PPP agreement so that the tolls do not constrain the flow of trade and travel.

The first section of the report concerned the issue of setting standards and criteria for public private partnerships at ports of entry. The first recommendation stressed that the need to have the existing infrastructure and staff be used as efficiently as possible prior to beginning new projects.

In identifying new projects, the Task Force found that private investors should pay for the facilities, the staffing, the equipment and the operations cost at these new border crossings, with, of course, some discretion being given to the Commissioner of the U.S. Customs and Border Protection to apportion those costs when need be.

Once a project has begun, the Task Force also recommended setting up a mechanism to allow the CBP Commissioner to make staffing changes in response to traffic flows. The Task Force recommended that CBP establish a new office of public-private partnerships in the Commissioner's office to help determine which projects may lend themselves to PPP

approach as well as to identify pilot projects. We recommended that they try to get three or four pilot projects approved in the next fiscal year.

This office would be under the Commissioner, but we also found in Canada and UK, there is an agency that they have set up to work across businesses and across government divisions to promote and look after these public private partnerships. So I think that is a very good suggestion.

The Task Force was also briefed on the current proposed legislative changes needed to help create the framework for public private partnerships. Among the changes the Task Force recommended was giving the CBP Commissioner the authority to enter into PPP's, giving CBP statutory authorization to collect a user fee for use of a port of entry during peak hours and to enact legislation to help complete CBP's goal of having one face at the border by consolidating existing FDA inspectors at ports of entry into Customs and Border Protection.

Also, we recommended that we eliminate the guidelines of the 1990 Budget Act that requires on these projects for leasing the full cost of the capital project be recorded and authorized in the first year. And instead we allow the amortization or the incremental costs over the life of that lease for a PPP.

The Task Force also was briefed on the current Beyond the Border initiatives with Canada on the Northern border and the 21st Century Border Management along the Southern border with Mexico. Section Four of the report focused on the importance of bi-national planning both at the border and at the infrastructure leading up to the border.

The fifth section of the report focused on the importance of a Memorandum of Understanding or Agreement between the government and the private sector to ensure that the private investor covers any necessary shutdown cost if the project fails.

And the remainder of the recommendations sought to identify potential mechanisms to enhance investments at ports of entry. One of the changes sought by the Task Force was a budgetary or statutory change that would allow Customs and Border Protection to use the rent money currently, which goes into the GSA's Federal Building Fund to use that by CBP into a capital program operated by CBP.

The Task Force also recommended that the issue of GSA ownership of ports of entry be explored in a future tasking. We did not have time to get into that in enough detail. The seventh section identified a number of potential sources of revenue to help pay for the infrastructure projects and these include tolls and retail and other sales such as duty free, communications conduits, advertising space and lease payments.

And finally the final section of the report, the Task Force encouraged CBP to continue to standardize practices at both the Northern and the Southern ports of entry. We supported recent Trusted Traveler programs, which involved the DHS and we encouraged more of that and we advocated that the CBP continue its efforts on pre-inspection and pre-clearance programs.

And in the Appendices of the report, the Task Force provided detailed background information on the recommendations and two case studies discussed by the Task Force for the recent progress in Puerto Rico where U.S. Commonwealth - where the U.S. Commonwealth has made strides in recent years in supporting public-private partnerships.

And a very good example on the Canadian border where they have a department level agency that deals specifically with public private partnerships. So it's a fairly detailed report, I hope I didn't take too long trying to summarize it but this is what we submit to you Judge Webster.

**William Webster:** Thank you very much Ambassador Jones, your report reflects a good deal of very careful thought and constructive suggestions. Are there any questions on the recommendations before we proceed to voting on the recommendations?

All right then. At this time I'd like to have the HSAC move to approve the Border Infrastructure Task Force recommendations report and transmit it to Secretary Napolitano.

I'll ask that all members in favor of adopting the report (unintelligible) that again.

**Becca Sharp:** I'm sorry Judge I think we've had somebody un-mute themselves and we have a lot of noise in the background.

**William Webster:** Okay, well we'll try that once more just for the vote again. All right, I'd like to - if everybody is off the mute so they can be heard, I'd like to say that all members in favor of adopting the report please say aye.

**Group:** Aye.

**William Webster:** Opposed please say no. Very well, by voice vote it is unanimously adopted. Now we're going to bring this public session to a close. Members of the public who would like to provide comment and that includes the

media, may do so in writing by post to the Homeland Security Advisory Council, U.S. Department of Homeland Security, 1100 Hampton Park Boulevard, Mail Stop 0850, MD 20743 or by email at, HSAC@DHS.GOV.

I'll repeat, HSAC@DHS.GOV. Those comments are appreciated and they will be reflected in the meeting minutes. So accordingly I declare this November 7, 2012 meeting of the Homeland Security Advisory Council to be adjourned.

Thank you very much.

**Jim Jones:** Thank you.

**Woman:** Thanks Judge.