

ENVIRONMENTAL LAW

Expert Analysis

Michael Bloomberg's Environmental Record, Bill de Blasio's Promises

On Nov. 23, 2001, under the headline "Michael Bloomberg's Environmental Agenda," this column began, "The stunning victory of Michael R. Bloomberg in the Nov. 6 election means that City Hall will be occupied by a man who has no record in environmental affairs." The column went on to summarize the promises found in Bloomberg's campaign literature and other statements.

Now with Mayor Bloomberg's term about to end and Bill de Blasio's about to begin, we can compare the outgoing mayor's accomplishments to his promises, and also look at what the incoming mayor has pledged.

To sum it all up, Bloomberg's environmental achievements far exceeded his promises in most areas. His one major failure (congestion pricing) was not for lack of trying. Mayor-elect de Blasio says he plans to continue and extend most of his predecessor's policies, though with a new emphasis on workforce training.

Bloomberg's Record

In its first term, the Bloomberg administration compiled a rather lackluster environmental record. During the 2005 reelection race, the New York League of Conservation voters gave its lowest score ("average") to the first term for the mayor's work on sustainability and sustainable development. He suspended the city's glass and plastics recycling program in 2002 for budgetary reasons, even though his 2001 campaign paper touted the importance of recycling.

However, by several accounts Bloomberg experienced a transformation in 2006 when he was given projections that the city's population would grow by one million people by 2030. He directed preparation of a systematic study of how the city would cope with this influx, and a result was the release of PlaNYC 2030 on Earth Day in 2007. This was a comprehensive look at how to provide more housing, infrastructure, parks, and other facilities and services to accommodate the larger population. Suffused throughout it was

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close attention to the environment.

While climate change was not high on the public agenda in 2001, it was by 2007. PlaNYC set out more than 120 initiatives, programs and goals to reduce greenhouse gas (GHG) emissions by more than 30 percent over the next two decades.

Some 75 percent of GHG emissions in the city come from buildings (both directly and in the generation of electricity for use in buildings), and increasing energy efficiency in buildings was a key strategy. The administration assembled committees of experts and, working with the City Council, adopted numerous changes to the Building Code and other laws to improve the energy and water efficiency of new and existing buildings; additional amendments are being adopted on a continual basis.

The Greener, Greater Buildings Plan (a part of PlaNYC) included many elements. One was Local Law 84, enacted by the Council in 2009, which requires many buildings to measure and report annually their energy and water use, to allow benchmarking comparisons to other buildings of comparable size, use and age, and in turn to identify opportunities for improvement. Some other elements included the adoption of a local energy code; the creation of a financing entity called the New York City Energy Efficiency Corporation; requirements that every ten years, large buildings conduct an energy audit and a retro-commissioning (a tune-up of their systems to improve efficiency); upgrading of lighting, the largest consumer of energy in buildings; and sub-metering of many tenant spaces.

Air quality in New York City has improved dramatically since the early 1970s, largely as a result of the elimination of coal burning and waste incineration within city limits, and federal requirements for motor vehicle emissions equipment. The largest uncontrolled source of air pollution was the burning of heavy heating oil in buildings. Bloomberg

pushed through a law that phases out this kind of oil in favor of natural gas and cleaner, lighter oil. In September 2013 Bloomberg was able to announce that the city had achieved its best air quality in more than 50 years.

The biggest disappointment has probably been the failure of the mayor's congestion pricing plan, which would have imposed charges on motorists for entering Manhattan south of 60th Street, with the dual aims of reducing traffic and helping to finance mass transit. The idea was included in the 2001 campaign material, and Bloomberg advanced it in his 2007 plan. The U.S. Department of Transportation agreed to provide \$354 million in funding. The City Council approved it by a vote of 30 to 20, but it could not obtain the necessary approval of the State Legislature.

Another disappointment was the effort to have new taxicabs be hybrid vehicles, which have much lower fuel use and GHG emissions than conventional gasoline-powered cars. This program was invalidated when the courts concluded it was preempted by the Energy Policy and Conservation Act and the Clean Air Act, which vest exclusive control over vehicle emissions with the federal government.¹

A hallmark of Bill de Blasio's campaign for mayor was a rejection of many of Bloomberg's policies. But not so for his environmental policies.

The 2001 campaign plan said that the city "should move toward a bike friendly and pedestrian friendly environment to foster alternatives to the use of motor vehicles." That pledge was certainly carried out, with Bloomberg's introduction of more than 300 miles of bicycle lanes, a bike-share program, and pedestrian-only areas.

The redevelopment of "brownfields"—slightly contaminated land—was also a Bloomberg priority. In 2001 he called upon the State Legislature to adopt a law that allowed parcels to be cleaned in accordance with their intended use. The Legislature indeed adopted such a law in 2003. Bloomberg established a Mayor's Office of Environmental Remediation in 2008 to develop a city-operated brownfield cleanup program, and

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in 2009 the City Council passed the New York City Brownfield and Community Revitalization Act to codify this program.

Bloomberg was a vigorous supporter of parks and open space long before he became mayor; he sat on the board of the Central Park Conservancy and privately contributed to many other parks groups. In 2001 he called for more staffing and maintenance of the parks, creation of more ball fields and other parks improvements. He created the MillionTreesNYC program, with the goal of planting and caring for one million trees across the five boroughs in the next decade. In June 2013 he declared that more than 750,000 trees had been planted, 300 acres of new parkland had been added, and 229 open spaces for children and 129 new community gardens had been opened.

After a slow period in the first term, the recycling program has grown considerably. Its coverage has been expanded to include rigid plastics; polystyrene food containers are proposed to be phased out; collection of electronics waste and textiles is being expanded; and a voluntary program has begun to reduce food waste from restaurants and to donate or compost much of what remains. Pilot projects for food waste composting have been announced for Manhattan and Staten Island. A processing facility for metal, glass, and plastic recyclables was built in the Sunset Park area of Brooklyn. In 2008, Bloomberg vetoed legislation requiring electronics manufacturers to recycle a set amount of their New York City waste, but the City Council overrode the veto. New York is not the national leader in recycling but it has made significant progress.

One area where New York is a national leader is resilience to climate change. The 2001 campaign statements did not anticipate the need for the city to adapt to climate change, but PlaNYC in 2007 recognized this challenge, which became screamingly apparent with Superstorm Sandy of October 2012. In June 2013 Bloomberg released a major plan, "A Stronger, More Resilient New York," which may be the most comprehensive plan of any U.S. city to cope with climate change. It draws on the projections of the New York City Panel on Climate Change (another Bloomberg creation) to formulate plans for such items as coastal protection, buildings, economic recovery, insurance, utilities, transportation, and parks.

Bloomberg has devoted much attention to clean water and water supply. The Third Water Tunnel, which broke ground in 1970, finally opened in October 2013, at a total cost of \$4.7 billion. The Third Water Tunnel is drilled into deep rock and has segments in the Bronx, Manhattan, Queens and Brooklyn. It greatly improves the security of the city's water supply.

Construction is well underway on a new drinking water filtration plant in Van Cortlandt Park in the Bronx to treat water from the Croton system (though this did not win him many fans among parks advocates). The 2001 goal of avoiding the need to build filtration plants for the Catskill/Delaware system, largely through upstate land use controls, has been achieved so far. The Bloomberg administration has launched

a "Green Infrastructure Plan" to reduce combined sewer overflows, and carried out major upgrades to the sewer system and several of the largest wastewater treatment plants.

De Blasio's Promises

A hallmark of Bill de Blasio's campaign for mayor was a rejection of many of Bloomberg's policies. But not so for his environmental policies. The de Blasio campaign released "A Framework for a Sustainable City" that states, "We can and must build on the successes of PlaNYC and convene all stakeholders to build the most sustainable city in the world. As mayor, Bill de Blasio will convene public and private sector actors to expand and deepen PlaNYC, and he will update the plan every year on Earth Day."

This Framework contains many other environmental plans and promises:

- "Expand the city's investment in large-scale clean energy production, including wind, solar, geothermal, hydropower and biofuels."
- "Make every government-owned building as green as is financially viable by 2020," and, for the private sector, "continue the commitment to the New York City Energy Efficiency Corporation."

The Bloomberg administration, working with the City Council, adopted numerous changes to the Building Code and other laws to improve the energy and water efficiency of new and existing buildings; additional amendments are being adopted on a continual basis.

- "Set a goal of zero waste in New York," including by "strengthening and expanding existing recycling, instituting composting programs, and establishing waste reduction programs, including, for example, bans on plastic bags and requiring more materials to be recyclable or compostable."

- "Invest in infrastructure upgrades that improve our resilience and ability to respond to an emergency," including through the use of permeable surfaces and natural infrastructure, and implementation of "a five-borough bioswales initiative to minimize the pressure on our water and sewer system."

In a different paper, the de Blasio campaign declared, "Mayor Bloomberg is to be commended for his comprehensive plan for rebuilding a more resilient NYC. Bill de Blasio intends to make those plans a reality through a process that involves every neighborhood in planning a more resilient future that makes our City an even better one." He joins with Bloomberg in rejecting what he terms "big headline-grabbing budget busting solutions like offshore barriers," and calls for targeted upgrades, such as armored stone shoreline protections in Coney Island and hardening vulnerable overhead power lines in Queens. He supports "lining our shores with sand dunes, especially on the Rockaways and other beach areas." He specifically noted the need to "plan

for extreme heat danger." He has pledged to "help lead other mayors and grassroots organizations across the country to demand national politicians enact the legislation and policies needed to radically reduce carbon use nationwide over the coming decades to limit the causes, not just the consequences, of climate change."

Another hallmark of the de Blasio campaign was his emphasis on increasing the number and quality of jobs. This carries through to his environmental program. He plans to "integrate green skills into workforce development," including the incorporation of training on ways to reduce energy costs into industry sector workforce development in all schools, apprenticeships and training programs.

De Blasio's paper says, "For many years, New York City's trash was disproportionately shipped to poor communities in the outer boroughs." In pursuit of "a fair, five-borough plan to handle New York's garbage," he will open the 91st Street Marine Transfer Station, which has been a contentious issue on Manhattan's East Side.

One area where the outgoing and incoming mayors have diverged is electronics recycling. De Blasio was one of the leaders in the City Council of the electronic recycling bill that Bloomberg vetoed and that the council overrode. Another disagreement is over hydraulic fracturing. Bloomberg, though opposing the use in the New York City watershed of this method for extraction of natural gas, co-signed an op-ed article in *The Washington Post* in August 2012 supporting hydraulic fracturing if carefully regulated. De Blasio supports the two-year fracking moratorium recently passed by the New York State Assembly, and states that "questions about health and environmental safety remain unanswered, and we can't afford to get this wrong."

In an interview in "The Nation," de Blasio said that "one thing we need to do on a much greater level is energy retrofits of buildings. I think this is a part of the Bloomberg legacy of lost opportunity where retrofits are so important in terms of reducing emissions and energy efficiency." He praised Chicago's model for financing energy retrofits.

In 2009, City Council Member de Blasio strongly opposed Mayor Bloomberg's congestion pricing plan. In 2012 he called Bloomberg's transportation commissioner Janette Sadik-Khan, a leading proponent of bicycle lanes, a "radical" who was moving too fast, but his mayoral campaign's papers say he "will continue expanding bike lanes around the city." He has called for numerous measures to improve pedestrian safety.

Perhaps in 2017 or 2021, as Mayor de Blasio's tenure draws to a close, we will have an opportunity to look at his 2013 pledges and see how they turned out.

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1. *Metropolitan Taxicab Board of Trade v. City of New York*, 633 F.Supp.2d 83 (SDNY 2009), aff'd 615 F.3d 152 (2d Cir. 2010), cert. den. 131 S.Ct. 1569 (2011).