BUILD UPON A STRONG FOUNDATION

Experience, professionalism, expertise, dedication and services are the foundation of Dougherty & Company. For more than 30 years Dougherty & Company has served South Dakota local and state governments, school districts, counties and cities, underwriting over $4 billion in bonds for South Dakota public entities since 1990.

RELY ON DOUGHERTY & COMPANY AS THE FOUNDATION FOR YOUR PUBLIC FINANCING NEEDS.

General Obligation Bonds | Sales Tax Bonds | Special Assessment Bonds
Revenue Bonds | TIF Bonds | Refinancings | Lease-purchases

DOUGHERTY & COMPANY LLC
TRUSTED PUBLIC FINANCE PARTNER SINCE 1977

Pierre, South Dakota | Phone 605.224.5557 | 877.224.5557
Sioux Falls, South Dakota | Phone 605.339.5800 | 800.339.1111

Member SIPC/FINRA
Yvonne Taylor Executive Director
Sandi Larson Director of Risk Sharing Services
Christine Lehrkamp Director of Research and Training
Jeff Mehlhaff Director of Municipal Electric Services
Carrie Harer Director of Marketing & Communications
Lori Butler Director of Finance/Office Manager
April LeBeau Administrative/Bookkeeping Assistant
Judith Payne SD Public Assurance Alliance Executive Director
Patsy Mikel SD Public Assurance Alliance Administrative Assistant

E-mail: yvonne, sandi, christine, jeff, carrie, lori, april, jpayne.sdpaa, pmikel.sdpaa @sdmunicipalleague.org
We hear about local control almost every day during the legislative session. It honestly doesn’t mean much – a convenient argument, but not often sincere. But this year, we were able to watch it in action on the texting ban issue.

The House bill was introduced NOT to enact a state-wide ban, but instead, to prohibit the local ordinances that had already been passed! That was quickly amended into a bill that would have enacted a terribly weak texting ban, while prohibiting better local laws.

The story was almost entirely different in the Senate, where the bill enacted a bit stronger ban, but made it clear the local entities COULD enact stronger local laws.

These two versions of the bill eventually collided in a conference committee. In that first conference committee, our strongest advocates for local control – Representative Jim Peterson and Senators Mike Vehle and Craig Tieszen, meant it. Stood for it. Voted for it. Our thanks are equally sincere, but I wish we could do more to recognize their support.

Because we felt the Senate version of the bill was so much better, especially because it respected local control, we spent more time working on the issue in that body, and Senators Vehle and Tieszen stood firm and fast, as they have throughout several years, with local control and a strong statewide texting ban. Representative Jim Peterson (Revillo) gave another honest, and wonderful to watch, talk on the importance of local control in Conference Committee, and Senators Lucas, Tom Jones, Reid Holien, and Cory Brown made crucial votes during the process. In the Senate, our thanks go to the 22 Senators who would NOT overturn local control for a weak state law. In the House, because the process is so different, and there are so many more people, it is harder to recognize all those who backed our position, but there were many, including the prime sponsor of the bill that eventually passed, Representative Scott Munsterman, and Christine Erickson who worked tirelessly behind the scenes on the issue. The members of the second conference committee are also to be thanked – they stood by their word and voted for the bill that eventually passed. There is no doubt others should be thanked, and I am sorry not to be able to name them all.

So in the end, what does this new state law mean for the local ordinances, or any future ordinances that might be adopted? What does it mean in a home rule city? Our answer is that you need to work with your city attorneys to answer those questions – they were also active in supporting our efforts and providing great information as we developed our position.

And now, we are off to District Meetings, and really looking forward to talking with all of you. Until next month, remember we are always available at 1-800-658-3633 or yvonne@sdmunicipalleague.org.

Yvonne Taylor
Executive Director
Last month I opened my article that with it being the beginning of March that we would be having warmer days. I think the March 1st weekend was probably one of the coldest on record throughout the state. I just keeping thinking…WHEN IS SPRING COMING???? Today, March 10th, the high for Wagner is supposed to be 64 degrees and I can tell you EVERYONE is looking forward to it!

Along those lines, is everyone geared up for summer projects and seasonal employees? If you haven’t read the March issue of the SDML magazine, please do. The information in there about hiring seasonal help is very informational and beneficial to cities as to follow the FLSA and child labor laws.

Don’t forget all the educational opportunities available: Street Maintenance Association meeting April 16-17; Code Enforcement Workshop April 30-May 1; and the Police Chiefs’ Association and Sheriffs’ Joint Meeting April 30-May 2. June brings the annual Human Resources and Finance Officer Association meetings as well. All of these registration forms can be found in the magazine and on the League’s website.

Those cities having an April election will actually know by now if they may or may not be having an election this year. If you are and you have newly elected officials joining the city council, do your best to make them feel welcome, answer their questions, and be willing to listen whether you are the Mayor, Councilperson, Finance Officer or other city staff. Listen to new ideas, evaluate and be receptive to possibly changing the ways things have been done in the past.

As you read this, I will be right in the middle of the district meeting schedule, meeting many elected officials and employees from cities across the state. Until next month!

Rebecca Brunsing
President
SDML Welcomes New Staff Members

April LeBeau joined the Municipal League Staff as the new Administrative Assistant/Bookkeeper in February.

Prior to joining the SDML, she worked as a Bookkeeper at a Pierre, SD dealership. In previous years, one of her favorite accomplishments was promoting the State of South Dakota, while working for SD Travel InfoMap.

April was raised in Iowa, and moved to South Dakota in 2004. She now lives in Ft. Pierre with her husband, Shon and son, Eli. As a new staff member to the SDML, she is excited to get started and begin contributing to the League’s work. “I like to be successful in everything that I do and I feel that I have a lot to offer to the League. I’m looking forward to working with everyone.”

You can contact April at 800.658.3633 or by email at april@sdmunicipalleague.org.

Patsy Mikel started as an Administrative Assistant for the SD Public Assurance Alliance in February.

Prior to joining the SDPAA, she worked for the SD Department of Corrections as Executive Secretary to the Warden.

Patsy is a life long resident of South Dakota, growing up in Madison. She lives in Sioux Falls and has two children.

You can contact Patsy at 800.658.3633 ext. 9 or by email at pmikel.sdpaa@sdmunicipalleague.org.

Sample Personnel Policies – Available!

The Sample Personnel Policies were recently updated, taking into account the statutory change making it clear that cities do not need to include a grievance policy for non-union employees. This manual is being published to provide cities in South Dakota with a practical guide to managing their human resources.

The League hopes that through this publication, cities throughout the state will realize the value of South Dakota’s human resources and create policies that will further the working relationship between the city and its employees.

Implementation of these policies may be needed to prevent conflicts of interest, discrimination, and preferred employee status, or accusations of such treatment, from interfering with legal and correct business practices.

The samples are not to be considered as, nor substituted for, legal advice. They are for example purposes only.

SD Public Assurance Alliance (SDPAA) members
If you are a member of the SDPAA you can download the manual for FREE.

SDML members that are not members of the SDPAA
If you are a member of the SD Municipal League and not a member of the SDPAA, the manual can be purchased for $125.

Contact Christine Lehrkamp at the League at christine@sdmunicipalleague.org or 800-658-3633 for a User Name and Password to download the sample personnel polices from the Municipal League website, www.sdmunicipalleague.org.

Sign-up! It is free!

The Cornerstone is a monthly State Library e-newsletter. Sign up at http://library.sd.gov. It comes out on the first of the month, 10-times a year.

The newsletters are short and packed with information, resource links and lots of grant opportunities!
Scholarship Application to attend 2014 IACP

Name: ______________________________________ Title: _____________________________________

Email Address: _________________________________________________________________________

Mailing address: ________________________________________________________________________

Number of years in law enforcement: _____________

Would your agency budget allow for you to attend this conference without the scholarship? What is your agency’s budget? _______________________________________________________________________

Have you attended an IACP conference before? ______ Are you currently a member of IACP? ______

What do you hope to gain from your attendance at the IACP Conference? __________________________
_____________________________________________________________________________________
_____________________________________________________________________________________

As part of the scholarship, the winner shall share their experience from the 2014 IACP Conference with the SDPCA membership during the next Annual Spring meeting. Is this something you are willing to do? _____

Estimate of Conference expenses: ___________________ Airfare
                                        ___________________ Hotel
                                        ___________________ Transportation
                                        ___________________ Meals
                                        ___________________ Other: ___________________
                                        ___________________ Total

Applicant must be a member of the South Dakota Police Chiefs’ Association in good standing; must have at least five years of SD Law Enforcement experience; must be a current Chief of Police of a city under 10,000 in population; must never have attended IACP before; and must be a member of IACP.

A copy of applicant’s City Councils’ approval for the travel must be received with application.

SDPCA will pay for roundtrip airfare, lodging for the conference dates only, IACP conference registration fee, transportation (taxi, airport shuttle; not rental car) and meals not included in the conference package. You are responsible for keeping all your receipts and submitting them to Christine at SDML for reimbursement. All reimbursement costs are subject to SDPCA board approval.

Please submit application to Christine at SDML (208 Island Drive, Ft. Pierre, SD 57532 or fax to 605-224-8655) by no later than July 1, 2014, to be considered for the scholarship.

...of the 309 municipalities in South Dakota, less than 15 have full time professional Human Resource personnel. Most HR duties are added responsibilities for existing city staff. This training will help anyone with HR responsibilities become better informed in this field, learn who to call on when they need help and where to turn to find resources.

**Preliminary Agenda**

**Tuesday, June 10**

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>12:15 p.m.</td>
<td>Registration – Conference Center Lobby</td>
</tr>
<tr>
<td>1:00 p.m.</td>
<td>General Business Meeting</td>
</tr>
<tr>
<td>1:15 to 2:45 p.m.</td>
<td>Complicated Issues involving the FMLA and ADA</td>
</tr>
<tr>
<td>2:45 p.m.</td>
<td>Break</td>
</tr>
<tr>
<td>3:15 to 3:45 p.m.</td>
<td>SD Public Assurance Alliance (SDPAA) update</td>
</tr>
<tr>
<td>3:45 p.m.</td>
<td>Hot Topics in HR</td>
</tr>
<tr>
<td>5:15 p.m.</td>
<td>Steve Bogue, Attorney, McGrath North Mullin &amp; Kratz, PC LLO, Omaha, NE</td>
</tr>
<tr>
<td>5:30 p.m.</td>
<td>Social and Dinner</td>
</tr>
</tbody>
</table>

**Wednesday, June 11**

*Continental breakfast provided*

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>8:00 to 11:30 a.m.</td>
<td>Why Can't We Just All Get Along???</td>
</tr>
<tr>
<td>11:30 a.m.</td>
<td>Tips, Tools and Techniques for Better Communication in the Workplace</td>
</tr>
<tr>
<td>3:15 p.m.</td>
<td>Hot Topics in HR</td>
</tr>
<tr>
<td>3:45 to 5:15 p.m.</td>
<td>Steve Bogue, Attorney, McGrath North Mullin &amp; Kratz, PC LLO, Omaha, NE</td>
</tr>
<tr>
<td>5:30 p.m.</td>
<td>Social and Dinner</td>
</tr>
</tbody>
</table>

---

**2014 Human Resource School Registration Form**

<table>
<thead>
<tr>
<th>Representing</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Title</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Email</strong></td>
<td>(Needed for June 11 session)</td>
</tr>
</tbody>
</table>

(Please print or type the name and title as you want them to appear on your name badge)

---

**Registration fee:** $50.00 for affiliate members and $100.00 non-members.

**Accommodations:** Be sure to mention you are with the SDML Human Resource Assoc. Make reservations by May 10 to guarantee the conference rate. Cedar Shore Resort, 605-734-6376, $92.95 + tax.

_____ person(s) @ $50.00 each = $_______  
_____ person(s) @ $100.00 each = $_______

**Return registration with payment by May 27, 2014 to:**  
SD Governmental Human Resource Association  
208 Island Drive  
Ft. Pierre, SD 57532

*No refunds will be given after May 27, 2014*  

---

Office Use Only: Date:________________  Check #:________________  Amount:________________
All nominations must be submitted in writing by May 15, 2014. The Finance Officer of the Year award will be presented during the 2014 Finance Officers’ School held June 11-13 in Oacoma.

Name of Nominee: ________________________________________

Position: ________________________________________________

Years of service to the municipality: ________________________

Contributions to the municipality as a Finance Officer: ____________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

Contributions to the community as a citizen: _________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

Significant contributions to any other organizations: _______________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

Personal accomplishments: _______________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

Other Comments: ____________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

Submitted by: ____________________ Phone: ________________

DEADLINE: May 15, 2014
Nominations will be kept confidential.
Use additional paper if necessary.

Please submit to: South Dakota Municipal League
208 Island Drive
Ft. Pierre, SD 57532
Fax: 605-224-8655
SD Governmental Finance Officers’ School
June 11, 12, & 13, 2014 • Cedar Shore Resort • Oacoma, SD

Preliminary Agenda

Wednesday, June 11

8:30 a.m. – 3:30 p.m. WEDNESDAY ONLY: Banyon Data Systems – Utility Billing & Point of Sale, Fund Accounting, Payroll and New Products will be available for Q&A (Informal, come and go Q&A sessions)

Door Prizes will be given away throughout the school – must be present to win.

Noon – 5:00 p.m. Registration – Conference Center Lobby

12:45 p.m. WELCOME by Oacoma Mayor Mike Schreiber

1:00 – 1:30 p.m. Business Meeting

1:30 – 2:00 p.m. Grant Research (information on the Foundation Center)
Brenda Hemmelman, Collection Services Librarian, SD Dept. of Education/SD State Library
After Brenda is done she will be in the Breakwater room until 5 p.m. for an informal, come and go Q&A regarding grants research and what the State Library has to offer to help you.

2:00 – 2:30 p.m. Legislative Update
Yvonne Taylor, Executive Director, SD Municipal League

2:30 – 2:50 p.m. Break
Sponsored by Banyon Data Systems, Inc.

2:50 – 4:00 p.m. “What’s Yours Like?”

2:45 – 5:15 p.m. Golf Tournament – Chamberlain Country Club
33848 Golf Course Road, Oacoma (one mile west of Quality Inn); $20/person, includes cart

5:30 – 7:30 p.m. Welcome Reception (outside on the deck – Area group NEFOG – games)
Sponsored by Stockwell Engineers
The Miller Foster Band will be playing from 7 – 10 p.m. Sponsored by the City of Oacoma
Hospitality room opens from 8:30 – 11:30 p.m. Sponsored by Dougherty & Company LLC

Thursday, June 12

7:15 – 8:00 a.m. Breakfast Buffet
Sponsored by Infrastructure Design Group, Inc

8:15 – 9:45 a.m. General Session
Living with an Attitude of Altitude
Keynote Speaker: Linda Henley-Smith “The Laugh Lady”
Drawing upon her experiences as a teacher, counselor, author and trainer, as well as a lifetime in the entertainment business, Linda Henley-Smith provides an amusing and educational outlook on working, living, and surviving. Learn to manage the negative situations and people, get past the past, manage stress and deal with change. Her program is presented with humor, music, stories and an energy that is contagious.

9:45 – 10:00 a.m. ‘Light’ Break
Sponsored by Helms & Associates and Schmucker, Paul, Nohr & Associates

10:00 – 11:00 a.m. Concurrent Sessions (Pick one; these sessions will be repeated in the afternoon)
- Budgeting 1, 2, 3 Panel
  Fay Bueno, Finance Officer, City of Sturgis; Mike Carlson, Finance Officer, City of Vermillion; Carolyn Anderson, Finance Officer, City of Wall; and Karla Nordyke, Finance Officer, City of Timber Lake
- Utility Billing & Collections A – Z Panel
  Jane Kleinsasser, Accounting Manager, City of Huron; Donna Bieber, Finance Officer, City of Java; Linda Hoberg, Finance Officer, City of Webster; and Meri Jo Anderson, Finance Officer, City of New Underwood
- Constitutional Debt Limit and How it’s Calculated
  Ray “Woody” Woodsend, Senior Vice President, Dougherty & Company LLC
  Todd Meierhenry, Attorney at Law, Meierhenry Sargent, LLP
11:00 – 12:00 p.m. Concurrent Sessions (Pick one; these sessions will be repeated in the afternoon)
- **Nuisances Abatement**
  Brad Solon, Division Manager, Building Services, City of Rapid City
- **Human Resources Basics**
  Meghan Wooster, Associate Attorney, Boyce, Greenfield, Pashby & Welk L.L.P and a contract attorney for SDPAA
- **How to Hire an Engineer or Architect for Projects**
  Jon Schmidt, Civil Engineer, Rural Development/United States Dept. of Agriculture

12:00 – 12:45 p.m. Lunch Buffet
Sponsored by HDR Engineering, Inc.

1:00 – 2:30 p.m. General Session
Keynote Speaker: Linda Henley-Smith
Are you ready to laugh some more? Linda will wrap up her *Living with an Attitude of Altitude* presentation.

2:30 – 2:45 p.m. Break
Sponsored by CETEC Engineering Services, Inc.

2:45 – 3:45 p.m. Concurrent Sessions (Pick one)
- **Budgeting 1, 2, 3 Panel**
  Fay Bueno, Finance Officer, City of Sturgis; Mike Carlson, Finance Officer, City of Vermillion; Carolynn Anderson, Finance Officer, City of Wall; and Karla Nordyke, Finance Officer, City of Timber Lake
- **Constitutional Debt Limit and How it’s Calculated**
  Ray “Woody” Woodsend, Senior Vice President, Dougherty & Company LLC
  Todd Meierhenry, Attorney at Law, Meierhenry Sargent, LLP
- **How to Hire an Engineer or Architect for Projects**
  Jon Schmidt, Civil Engineer, Rural Development/United States Dept. of Agriculture

3:55 – 4:55 p.m. Concurrent Sessions (Pick one)
- **Nuisances Abatement**
  Brad Solon, Division Manager, Building Services, City of Rapid City
- **Utility Billing & Collections A – Z Panel**
  Jane Kleinsasser, Accounting Manager, City of Huron; Donna Bieber, Finance Officer, City of Java; Linda Hoberg, Finance Officer, City of Webster; and Meri Jo Anderson, Finance Officer, City of New Underwood
- **Resources Basics**
  Meghan Wooster, Associate Attorney, Boyce, Greenfield, Pashby & Welk L.L.P and a contract attorney for SDPAA

6:00 p.m. President’s Social (cash bar)
*Business casual dress*

7:00 p.m. Finance Officer of the Year Banquet
Guest Speaker: Coach Don Meyer, Former basketball coach at NSU
Sponsored by Howard R Green Company

Hospitality room opens after Banquet until 11:30 p.m.
Sponsored by Dougherty & Company LLC

**Friday, June 13**

Municipal Pride Day! Wear a shirt, hat or pin that promotes your city!

7:30 – 8:15 a.m. Breakfast Buffet
Sponsored by Short Elliott Hendrickson Inc. (SEH)

8:15 a.m. Last minute announcements

8:30 – 9:30 a.m. Making Automation Work for You
Kenton Peterson, Treasury Management Sales Consultant, Wells Fargo Bank, N.A.

9:30 – 10:45 a.m. DLA Refresher
Rod Fortin, Director of Local Government Assistance, SD Department of Legislative Audit

10:45 – 11:30 a.m. Liquor Laws
Carol Logan, Section Coordinator – Special Tax Division, SD Department of Revenue

11:30 – Noon Excise Tax
Alison Jares, Deputy Director – Business Tax Division, SD Department of Revenue

Registration form can be found online at www.sdmunicipalleague.org under SDML Events.
SDML and SDACC Executive Directors’ Q&A with SDPAA Executive Director

Protecting local governmental entities by providing liability and property coverage programs for 26 years, the South Dakota Public Assurance Alliance has grown to the point that bringing certain services in-house will allow for more efficient and effective services to Members.

With the SDPAA transitioning administration and marketing functions “in-house,” SDML Executive Director, Yvonne Taylor, and SD Association of County Commissioners (SDACC) Executive Director, Bob Wilcox, sat down for a “Q&A” session with SDPAA Executive Director, Judy Payne, for information to share with their membership.

Yvonne Q: Please tell our SDPAA Members how the decision to transition these services “in-house” came about.

A: Many public entity risk sharing pools bring some and sometimes all services in-house once they reach a level of financial stability and sophistication to do so if it will better serve their Members. A few years ago, the SDPAA Board began studying the issue. After much thoughtful deliberation, the Board decided it was in the best interest of the Members to hire an Executive Director in 2013 and begin the transition of the administration and marketing functions in-house.

Bob Q: Exactly what services currently being performed by outside contractors will be performed in-house and when?

A: Administrative, finance, underwriting, and marketing services currently being performed by Hagan Benefits, Inc. will be performed in-house. SDPAA’s contracts with Hagan Benefits expire on December 31, 2014 after which SDPAA will fully assume those functions.

Yvonne Q: How will SDPAA staff these functions and when? Also, please describe the Agreement for Services between SDPAA and SDML.

A: By the time this article appears in your publications, SDPAA will be well on its way towards hiring a Director
of Underwriting and a Director of Member Services. Regarding the Agreement between SDPAA and SDML, SDML will be providing finance, website management, and some administrative services to SDPAA for a fee. Sharing these services has a positive economic impact for all concerned and strengthens the relationship between our Members and their sponsoring organization.

Bob Q: How will this affect our Members and what changes will they see?

A: Making the transition as seamless as possible for our Members is a very high priority. The SDPAA Board of Directors wisely planned a two year transition process giving us time to research and study best options and practices for us to serve our Members. Our Members will continue to benefit from broad, stable coverage at great, stable rates. A change they will see is that communications handled through 2014 by Hagan Benefits, will be handled directly by SDPAA. Claims Associates, Inc. will continue to provide claims adjusting services and Safety Benefits, Inc. will continue to provide loss control and property valuation services for SDPAA.

Yvonne Q: The Member Services Program is new to SDPAA. What can we expect from it?

A: The Member Services Program will include marketing as well as an emphasis on services we provide to our Members. As our society has become more litigious and public entities are frequently viewed as having “deep pockets,” risk management to reduce and manage losses continues to evolve. We at SDPAA want to ensure our Members are provided with communications, resources, and program assistance to address their needs. In the very near future, we will be reaching out to Members seeking volunteers to serve on a Member Services Task Force to assist us in developing the program to meet their needs. Our Members are our owners and we want to use a collaborative approach to support them in a way that is meaningful to them.

Bob Q: In serving as SDPAA’s Executive Director, what do you think is most important to Members and the continuing success and viability of the Pool?

A: The first thing that comes to mind is return on investment. The SDPAA is financially stable and we need to continue the great work that’s been done to put SDPAA in that position. In addition to good, stable pricing for broad coverage being a good return on investment, so are the services provided by SDPAA to our Members. The services of loss control reviews, loss control and safety training, claims and litigation management, assistance with risk management requirements associated with contracts, agreements, and special events are among several very valuable services provided to Members through their SDPAA coverage. Other things which come to mind are responsiveness, integrity, and continually working to grow and strengthen the Pool.

Yvonne Q: Is there anything you would like to close with?

A: Yes. As I stated in our Annual Report to Members and in a recent letter to SDPAA Member contacts, it is my pleasure to have the opportunity to serve the Members of SDPAA as their first Executive Director. It is gratifying to be working for them leading a successful, strong, financially stable public entity into the future. The SDPAA Board of Directors, our service providers, and I take pride in our dedication to due diligence so we may continue to merit respect and public confidence. And, Members have my commitment to work to continually improve upon the value SDPAA has been bringing to public entities and to the taxpayers for the past 26 years. Everything about SDPAA is good and it’s only going to get better!

Additional questions can be directed to Judy Payne, SDPAA Executive Director, at 800.658.3633, ext. 8 or jpayne.sdpaa@sdmunicipalleague.org, www.sdpaa.org.
Court Finds Employee Tape Recording Not Unlawful

By Steve Bogue, McGrath North Mullin & Kratz, PC LLO

Can an employee record a confidential conversation with her employer and get away with it? “Yes” said a court in Kansas as it rejected the employer’s argument that such a recording was improper and unlawful.

One of the side effects of the increased presence of smartphones is the ability of individuals to record conversations with others, regardless of whether the other person knows the recording is being made or whether that conversation is a confidential one. In *Domoney v. Class, Ltd.*, a U.S. District Court in Kansas examined a situation in which an employee had signed a confidentiality agreement with the employer which prohibited the disclosure of confidential information for any reason other than the performance of job duties and warned of legal action if such a disclosure were made. The employer subsequently conducted a confidential personal meeting with the employee in an attempt to resolve ongoing workplace disputes between the employee and a coworker. The employee recorded the conversation on her cell phone and sent a copy to her mother.

The employer attacked that recording alleging that it violated the Federal Wiretap Act. However, in doing so, it had to deal with one of the specified exceptions to the Act which allows for the interception of oral communications, such as a conversation, where one of the parties (the person recording it) gives their consent. It found that the employee, obviously, had consented to the recording. However, the employer argued that exception did not protect the recording because the Federal Wiretap Act also provides that even if there is one person’s consent, the recording may be unlawful if it was made for the purpose of committing any criminal act or civil wrong, in violation of the law.

The court concluded that for the recording to fall into that exception to the one-party consent rule, the employer had to prove that the purpose of the recording was to commit an independent wrongful act by the employee. If offered the examples of recording a conversation for later use to impeach the other participant in the conversation or the recording of a conversation to acquire evidence of possible wrongdoing in connection with anticipated litigation. It found both of those purposes to be acceptable. It also found that the wrongful act had to be one which was independent of the act of recording, in other words to support an independent outside act of wrongdoing. It found that there was no such wrongdoing and dismissed the employer’s motion.

The lesson here is clear. In the overwhelming majority of the cases, except in those few states which have not adopted the “one party consent” rule (there are approximately 12 states that require consent of all parties to the conversation) employers will not be able to attack an employee recording absent evidence that it was to be used for an independent wrongful act, such as, perhaps, extortion. In the absence of such evidence, courts will not intervene. Perhaps the real bottom line is to always be aware of the potential of such recordings and conduct business conversations accordingly.

Steve Bogue can be contacted at sbogue@mcgrathnorth.com or 402-341-3070.
**South Dakota Building Officials’ Association**  
*An affiliate of the South Dakota Municipal League*  

**ICC Code Hearings Conference Scholarship Application**

<table>
<thead>
<tr>
<th>Applicant’s Name</th>
<th>Attended ICC Conference before? When?</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Representing</th>
<th>Population</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Address (City, State, Zip)</th>
<th>Phone</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Job Title</th>
<th>Years at Job</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Conference Location (City, State)</th>
<th>Travel Dates</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Member of SDBOA (Y, N)</th>
<th>ICC Membership Number</th>
<th>Date Expires</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Person Authorizing Travel</th>
<th>Title</th>
<th>Phone</th>
</tr>
</thead>
</table>

**Briefly Describe Your Duties:**

_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________  

<table>
<thead>
<tr>
<th>How will attending the ICC Code Conference help with your job:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

Applicant must be a voting member of the South Dakota Building Officials’ Association and a voting member of the ICC or become one prior to scholarship award.

The Scholarship fund allows for reimbursement for transportation, lodging, and any associated ICC Code Hearing Conference fees.

ONE scholarship to be awarded to an individual that has not previously attended an ICC Code Hearing, and ONE scholarship will be awarded to an individual that may have attended a previous ICC Code Hearing in the past.

Scholarships to attend the ICC Code Hearings are NOT limited to in-state use only.

Approval of the applicant’s City Council, Commission, or Supervisor must be received with application.

All applications must be received in the office of the SDML (208 Island Drive, Ft. Pierre, SD 57532 or fax to 605-224-8655) no later than **July 1** each year to be eligible. Applications will be reviewed and notification of award given a week later.
What Cities Need to Know about the ACA’s Employer Mandate Rules

By Neil Bomberg, National League of Cities

On February 12, 2014, the U.S. Department of Treasury issued its final employer mandate rules governing large employers (those with 50 or more employees) under the Affordable Care Act (ACA). Known as the “employer shared responsibility” or “employer mandate” rules, these rules require that employers with 50 or more full-time and/or full-time equivalent employees provide those employees and their dependents with affordable health care coverage that meets specified standards, or face financial penalties.

When the rules were released, what garnered the most media attention was the portion of the rule that states that employers with 50 to 99 full-time workers have one more year to comply with the law. This means they will not have to comply with the shared responsibility provisions until January 1, 2016, after which they will be subject to any and all penalties and fees if they fail to comply with the ACA.

From the perspective of cities, however, this provision may be the least important.

The rule includes many other provisions, including those pertaining to seasonal employees and volunteer employees including first responders that are very important to cities and will go into effect on January 1, 2015.

Specifically, the rule:

- Clarifies the meaning of the term governmental entity to include “the government of the United States, any State or political subdivision thereof, any Indian tribal government, or any agency or instrumentality of any of the foregoing.”;
- Reiterates that a large employer for purposes of the ACA is one that within the preceding calendar year employed an average of 50 or more full-time and full-time equivalent employees;
- Grants employers a 12 month “look back” period to determine whether an employee is full- or part-time;
- Clarifies that the term full-time equivalent employee, or FTE, “means a combination of employees, each of whom individually is not treated as a full-time employee because he or she is not employed on average at least 30 hours of service per week with an employer, but whom, in combination, are counted as the equivalent of a full-time employee solely for purposes of

Banyon Data Systems
Proven software for communities both large and small
Great value for great communities

- Banyon Data-Founded 1981
- SD Chart of Accounts Used
- Online Demos
- SD Retirement Program
- Conversions
- Assessment Software
- Cemetery Software
- Licensing / Permits
- Over 1200 Installs
- Updates Online
- Online Support
- Online Training

Designed for South Dakota cities

- Fund Accounting - Includes all essential modules
- Payroll - Includes all essential modules
- Utility Billing - Includes all essential modules
- Fixed Assets
- Permits, Licensing
- Cemetery Management
- Retirement reporting and filing
- State and Federal forms printed
  - Direct Payment
  - Direct Deposit
- Meter Reader Import and Export Interface
  - Superior/Responsive Support

www.banyon.com

Carrie Harer (800) 658-3633
carrie@sdmunicipalleague.org

SOUTH DAKOTA MUNICIPALITIES
of determining whether the employer is an applicable large employer.

- Provides that any employer who transitions from a small employer to an applicable large employer and provides qualified health care coverage to its employees by April 1 of the same calendar year in which they become a large employer will not be subject to any of the penalties for failing to meet the large employer mandate.

**Seasonal Employees**
The Department of Treasury also ruled that an employer is not considered to employ more than 50 full time employees if: “(1) the employer’s workforce exceeds 50 full-time employees for 120 days or fewer during the calendar year, and (2) the employees in excess of 50 employed during such 120-day period are seasonal workers as defined by the Secretary of Labor.” This should help cities with small full-time workforces but larger seasonal workforces remain exempt from the employer mandate if those employees meet the Dept. of Labor’s seasonal worker definition.

**Volunteer First Responders**
Most notably, the final rule provides that the hours of bona fide volunteers do not count toward the “number of employees” calculation under the ACA. This includes volunteer first responders who receive deferred compensation benefits, reimbursements or allowances for reasonable expenses incurred in the performance of services as volunteers or nominal fees customarily paid in connection with the performance of services.

This rule is significant for small communities with fire departments whose workforce meets the Treasury’s definition of volunteer first responders that may have been concerned that the need to count their volunteers would cause them to be subject to all of the rules for large employers under the ACA.

However, so-called volunteers who receive more than nominal compensation - expense reimbursements, small stipends or length of service pension benefits - will not be considered bona fide volunteers and will have to be counted as employees for purposes of the ACA. This means that cities and towns where volunteers receive compensation that is more than nominal, even if it is less than what is paid to regular firefighters, will have to count their volunteers as employees for purposes of the ACA.

This conforms to NLC’s previous discussions about how (bona fide) volunteer first responders should be considered under the ACA, and its more recent assessment based on Treasury’s January 10, 2014, memo regarding fair treatment of volunteer firefighters.

By Vincent Long, ICMA-CM

Today’s managers have the exciting opportunity to create more effective and highly valued local governments than ever before. To do so will take more than working harder and smarter. In most cases, it will require local governments to generate true organizational culture change.

I know, even the term is scary, and the suggestion of the need for culture change is often met with a mix of cynicism and frustration. That’s an honest reaction for many in local government who may feel under attack after years of devoting their best efforts to the toughest issues facing their communities in a generation.

Yet despite these efforts, disconnects persist between residents’ negative perceptions of government and the positive things government actually does to improve their daily lives. This is a culture war of another kind. Thus far, the culture of local government has proven to be no match for the culture (or set of behaviors and beliefs among people) toward government in general.

Especially in large government organizations, culture change often evokes the “turning of the ship” analogy, which, of course, speaks to the difficulty and the time it takes to turn something so large with such momentum that it is easier to just stay the course.

Most managers are quick to tackle and fix what they readily identify as performance issues, like absenteeism and missed deadlines. These are actually often symptoms of such larger problems signaling the need for culture change as lack of cooperation, purpose, and communication, as well as general organizational stagnation.

The latter are both easier to ignore and harder to fix. And like the iceberg, it’s hard for managers to understand the dangers of, no less fix, what they do not see, including shared values, beliefs, and commitments that drive organizational effectiveness and performance.

So, instead of turning the ship, managers instead engage in endless retooling and restructuring efforts or focus on just plain fixing the next biggest problem that arises—in other words, rearranging the deck chairs. The truth in this analogy is that culture change is hard, but the only thing more urgent than the desperate need for organizational culture change in most local governments is the time frame the manager has to make it happen.

Unlike the captain who can simply yell, “Turn to the starboard,” the work of the local government manager takes more than a single command. Although specific changes will be unique to each locality, managers must rely on six keys to activate organization-wide culture change.

---

**Turning the Local Government Ship Starboard**

**Six keys to activating organizational culture change**

By Vincent Long, ICMA-CM

Today’s managers have the exciting opportunity to create more effective and highly valued local governments than ever before. To do so will take more than working harder and smarter. In most cases, it will require local governments to generate true organizational culture change.

I know, even the term is scary, and the suggestion of the need for culture change is often met with a mix of cynicism and frustration. That’s an honest reaction for many in local government who may feel under attack after years of devoting their best efforts to the toughest issues facing their communities in a generation.

Yet despite these efforts, disconnects persist between residents’ negative perceptions of government and the positive things government actually does to improve their daily lives. This is a culture war of another kind. Thus far, the culture of local government has proven to be no match for the culture (or set of behaviors and beliefs among people) toward government in general.

Especially in large government organizations, culture change often evokes the “turning of the ship” analogy, which, of course, speaks to the difficulty and the time it takes to turn something so large with such momentum that it is easier to just stay the course.

Most managers are quick to tackle and fix what they readily identify as performance issues, like absenteeism and missed deadlines. These are actually often symptoms of such larger problems signaling the need for culture change as lack of cooperation, purpose, and communication, as well as general organizational stagnation.

The latter are both easier to ignore and harder to fix. And like the iceberg, it’s hard for managers to understand the dangers of, no less fix, what they do not see, including shared values, beliefs, and commitments that drive organizational effectiveness and performance.

So, instead of turning the ship, managers instead engage in endless retooling and restructuring efforts or focus on just plain fixing the next biggest problem that arises—in other words, rearranging the deck chairs. The truth in this analogy is that culture change is hard, but the only thing more urgent than the desperate need for organizational culture change in most local governments is the time frame the manager has to make it happen.

Unlike the captain who can simply yell, “Turn to the starboard,” the work of the local government manager takes more than a single command. Although specific changes will be unique to each locality, managers must rely on six keys to activate organization-wide culture change.
1. Support of the elected body.
Managers know the support of the elected body is critical to the success of most anything we do. Notwithstanding important boundaries in the council-manager structure of government, some managers may be too quick to draw a red line between what they see as management and organizational issues versus policy and political issues. If the manager pigeonholes organizational culture change as solely a management or organizational issue, the effort may be doomed from the start.

The elected body must fully understand the reasons for the change and have clear expectations about what it will see as a result of the change (refer to local government management rule No.1: No surprises!). Elected officials must engage in and endorse this effort as it will impact everything: how the organization thinks, acts, communicates, and is perceived. Specifically, prior to the launch and implementation of the culture change, the elected body should adopt specific tenants of the culture change in its vision statement and goal-setting processes. An ideal time to do this is at an annual commission retreat.

Commissions rarely have time away from the full agenda of a commission meeting to get in the balcony and think about the broader vision. Doing so affords elected officials the opportunity to see how the culture change aligns with their vision.

When elected officials see the benefits of influencing the organization at this level, they will also see less of a need to dive deeper into the organization to try to fix problems when they arise.

While some elected officials may not want to embrace the term culture change when they first hear it, they will become champions of the change when they realize that you have armed them with something much more powerful: Confidence in the organization they represent and the ability to easily convey that to their constituents.

2. The power of employee buy-in.
Make no mistake about it, employees make culture change happen, so employee buy-in is essential. For employees, buying in to culture change is not like the passive acceptance of a new idea or even the faithful execution of a new direction. These are easy for most employees.

Buying in to culture change requires a commitment to do things differently than employees have perhaps ever done them before. That’s a tall order, especially for something that can seem intangible or unproven like culture change.
It is imperative that employees believe the culture change is not an exercise or process improvement that they are subject to, but a transformational process that they drive. For public employees who have had plenty of justification to feel like an easy target for too long, it is important that the culture change be empowering.

In fact, much of the positive culture change that can occur in local government acknowledges the larger economic and political factors that we do not control but focuses on that which we have complete control over. This is what powerful organizations do.

Employees must also understand that culture change is not only critical for the organization in adapting to new realities, but also that it will help them and their fellow employees perform their jobs better and derive greater job satisfaction.

3. Creating and supporting culture change.
Part of my reason for writing this article was my own failed attempts to find a step-by-step process for creating and sustaining the culture change my organization needed. Despite the abundance of literature available on organizational culture, I could find little with a strong nexus or much practical application to local government organizations.

I ultimately came to realize, however, that the lack of a single best process for effectuating organizational culture change is not as important as developing a process you believe will work best for your organization—and then using it. The process of stimulating culture change generally involves identifying what the current culture is and what the preferred culture needs to be.

This effort takes willingness to dig deep and identify what collective behavior changes need to occur for employees and residents to derive continuously improving meaning from the organization, to the benefit of the organization. This requires the ability to take an honest look in the mirror and recognize what the organization does well, what it does not do well, and where it must improve. Your evaluation must consider perceptions of the organization as facts.

This sounds easy, but it is extremely hard to do. It opens the door, however, to an enormous opportunity for the manager to explore with employees the reasons these perceptions exist, to empower employees to fix problems and to challenge them to actively convey the importance of what they do.

Once you have identified the most important culture changes to make, it will be important to identify subsequent steps to integrate the preferred culture in all of the organization’s strategic processes. In human resource processes alone, for example, the organization’s culture should be reflected in everything from considering the cultural fit during employee selection, to telling the story of the culture change to retired employees.

The same emphasis on culture must be reflected in how the organization sets priorities and budgets, delivers services, measures performance, communicates, and so forth. Ensuring that all of this actually happens, however, is perhaps the most critical element to change.

This requires creating a structure to support and sustain the organizational culture. This structure clearly articulates the organization’s culture and how it is aligned with and reflected in everything the organization does. Leon County does this through what we call Leon LEADS: A Structure for Success (www.LeonCountyFL.gov/LeonLEADS). In spirit, this structure ensures that no detail is too small to escape the culture in all that we do.

4. The importance of one culture.
One of the unique characteristics of local governments is that
they do not provide one type of product or service, but many. As such, there are numerous divisions and departments from Airports to Zoos that do many different things.

Without a well-articulated organizational culture and a structure to sustain it, all of these separate functional areas have their own cultures. That’s the way organizational cultures work. Some cultures happen by accident, others happen by design, but all organizations have them.

As a result, all of the individual organizational cultures may be conveying entirely different and even conflicting things to residents about the larger local government. Here’s a signal: You know you have an organizational culture problem when residents say, “I love city parks and recreation, but I hate city government,” or “I am a strong advocate of the county library system, but I am not a fan of county government.” Huh?

Multiple and competing cultures in one organization create confusion, inconsistency, and loss of the immense opportunity local governments have to convey and reinforce their organizational culture, given the aggregation of ways that managers touch the lives of the people they serve every day. Some departments or divisions will have good, scalable cultural traits that you may adopt in setting the overall culture change.

Managers, however, should know from the start that these individual cultures act as a brake on the innovation and change associated with their efforts to create the one preferred organizational culture for the whole.

5. Living your culture through core practices.
Given all of the vastly different functions local governments provide and the importance of creating one organizational culture, core practices are an important way to ensure a distinct and consistent culture throughout the organization. Core practices are not core values. Most organizations have core values; fewer organizations have core practices, which put value statements in action. Core practices are not ideals that the organization aspires to, but what the people of the organization believe in and what they actually do in living their culture.

The development of core practices is a key element in organizational culture change. Core practices are not ideals that the organization aspires to, but what the people of the organization believe in and what they actually do in living their culture.

As such, core practices should facilitate, carry out, or reinforce specific areas that you identify for the culture change you seek to realize. Core practices define the organization’s culture because we are what we repeatedly do.

An important detail to consider is to incorporate core practices in employee performance evaluations. Most organizations evaluate employees on the extent to which they “meet expectations” in the performance of technical, professional, and routine aspects of their jobs. Evaluating employees on the extent to which they exemplify the organization’s core practices is a key to effectuating and sustaining your culture.

6. Manager as culture cheerleader-in-chief.
As I stated earlier, the manager’s work in “turning the ship around” is more difficult than the captain who can simply yell a single command. In fact, at the risk of mixing metaphors, the skills and abilities the manager needs in organizational culture change are more like that of a cheerleader.

Like cheerleading, it will require enormous energy, excitement, and repetition by the manager in articulating the preferred culture and the core practices to sustain it. All eyes will be on the manager throughout this cultural transformation. The expectation should be that the crowd (your employees) will adopt a level of acceptance and enthusiasm for the new culture that’s slightly lower than the manager and management team (middle management in particular).

This requires the understanding going into it that local government employees are a particularly tough crowd; a bunker mentality commonly exists. The sense that “this too shall pass” is pervasive and understandable given election cycles and high turnover at the top manager position.

Managers should anticipate resistance, especially in siloed departments. This can depend on the organization, but it could be a highly technical department like management information services, or it could be a department with perhaps a long-tenured manager with a high degree of expertise.

Ultimately, it takes more than continuous encouragement. It requires the regular sight of the manager from the most dangerous point at the top of the local government pyramid in order to inspire others to follow.

If managers are willing to embrace this time of great adversity as an exciting opportunity to effectuate organizational culture change, their organizations will be poised to enjoy the far-reaching impact of that transformation.

Vince Long, ICMA-CM, is county administrator, Leon County, Florida (LongV@LeonCountyFL.gov).

Reprinted with permission from the January/February 2014 issue of Public Management (PM) magazine published and copyrighted by ICMA (International County/City Management Association), Washington, D.C.
In a recent decision, the National Labor Relations Board (NLRB) struck down another confidentiality policy maintained by an employer. The employer, MCPc, Inc., a technology services company, had a confidentiality policy in its handbook which provided that “dissemination of confidential information, such as personal or financial information, etc., will subject the responsible employee to disciplinary action or possible termination.”

During a “team building” meeting, an engineer of the Company advised his manager and coworkers that he had concerns about the heavy workload and suggested that the Company hire more engineers. The engineer went on to criticize the Company’s decision to hire a corporate executive with an annual salary of $400,000 because the money could have been used to hire additional engineers. Coworkers at the meeting agreed with his comments. Approximately one week later, the engineer was called into a meeting with the Company’s CEO and accused of improperly accessing computer files to discover the salary information. The engineer had special computer access rights to the database due to a project that he was working on. The Company found that he violated the confidentiality policy and terminated his employment.

The NLRB concluded that the confidentiality policy was overbroad. Employees could reasonably construe the policy to prohibit a discussion of wages and other terms and conditions of employment. In recent decisions, the NLRB has set aside overbroad confidentiality policies because they violate Section 7 rights under the National Labor Relations Act (NLRA). Section 7 protects an employee’s right to engage in concerted activities including the right to address matters relating to wages, benefits, hours and working conditions.

According to the NLRB, the engineer engaged in a protected activity when he discussed the heavy workloads...
and staff shortages during the “team building” meeting. The court rejected the Company’s argument that the employee was disciplined for inappropriately accessing confidential information. The NLRB ordered the Company to cease and desist from utilizing the confidentiality policy and fully reinstate the engineer with back pay and benefits.

It is common for employers to overlook an individual’s Section 7 rights under the NLRA. Having an overbroad policy on confidentiality can stifle an employee’s right to voice concerns in the workplace. The NLRB’s opinion should not be construed to authorize an employee to access and use confidential information whenever it is needed to support a grievance. Disciplinary action is proper if an employee acquires confidential information without authorization and in violation of policy. Employers need to review their confidentiality policies and make sure the restrictions are not overreaching. They also need to protect confidential information from non-management employees who may use the information to challenge wages, hours or working conditions.

Aaron Clark can be contacted at aclark@mcgrathnorth.com or 402-341-3070.

Obituary: Lloyd Mork

Lloyd H. “Mud” Mork, 64, of Irene, SD died Friday, February 7, 2014 as the result of an automobile accident near Yankton, SD.

Lloyd Harvey Mork was born January 18, 1950 in Yankton, SD to Harvey and Judith (Erickson) Mork. He attended grade school at Lincoln Country School and later Graduated from Irene High School in 1968. Lloyd married Vicki Bak on August 20, 1971.

Lloyd farmed from 1969 until they moved to Irene in 1996. He then worked for Meyer Heating and Air Conditioning from 1996 until 1998. He then went to work for the University of South Dakota for 15 years, until beginning his most recent employment at the Human Services Center in October of 2013.

Lloyd was a die-hard Packers Fan, golf enthusiast, and all around sports fanatic. He loved his kids and grandchildren endlessly.

Lloyd was presented the Outstanding Young Farmer award in 1982. He held positions in several councils and organizations including Turkey Valley Township Clerk, Calvary Lutheran Church Council, Councilman and then Mayor of the City of Irene and coached youth basketball and baseball for his sons.

Survivors include his wife Vicki, sons: Brad (Kiya), Kyle (Jennifer), and Tony (Wendy), six grandsons: Scott, Jacob, Cade, Kaden, Trevor, Andrew and three granddaughters: Thea, Mckenna and Sienna.

From the Ground Up!

Building and maintaining great tanks, that’s what Maguire Iron has been doing since 1915. We are now in 30 states so let us do it for you too from the ground up!

Maguire Iron, Inc.
P.O. Box 1446  Sioux Falls, SD 57101  605 334-9749
www.MaguireIron.com

We designed it. We fabricated it. We erected it. We painted it. We maintain it.

JSA ENGINEERS AND LAND SURVEYORS
Land Development • Municipal • Streets • Water Sewer • GPS • Construction Staking
6810 S. Lyncrest Avenue • Suite 101
Sioux Falls, South Dakota 57108-2515
605-367-1036 • Fax 605-367-1002
A Leader’s Three Levels of Ethical Responsibility
Conduct that counts

By Kevin Duggan

The concept that leaders are responsible for conducting themselves in a manner consistent with high expectations for ethics and integrity is well understood and accepted, but what is possibly less appreciated is how this expectation is applied in circumstances that go beyond the leaders own direct actions.

While the personal conduct of a leader will be scrutinized by the members of the organization and is fundamental to the individual’s leadership credibility, what is often not fully appreciated is how a leader’s response to the conduct of others is equally as critical to a leader’s success. In this context, it is critically important for leaders to understand their “Three Levels of Ethical Responsibility.”

First Level: Your Personal Conduct (What You Did)
It is fairly easy to understand that a leader is held to a high standard for their personal and professional conduct. You will be judged on how you conduct yourself—the personal decisions to do or not do something.

And as a leader, you will be held to a high standard. While some might object to the notion that leaders need to hold themselves to a higher standard than others, it is a reality that leaders are—and should—be viewed as role models, and they need to demonstrate the behavior and conduct expected for the entire workforce.

Leaders’ personal conduct, which members of the organization will always closely watch, will directly impact the level of ethical conduct throughout the organization.

You will be carefully observed and evaluated based on a variety of criteria, including how you use public resources, how honest and straightforward you are with others, and the level of personal conduct to which you hold yourself.

And always be mindful that the consequence to the public sector leader for a personal misstep is likely to be much more significant than to a member of the general public. The notoriety and impact of a local government manager being arrested for DWI, for example, will far eclipse the impact on most other members of the public who find themselves in similar circumstances.

Second Level: What Others Did That You Knew About
Many, if not most, organizational leaders who find themselves accused of ethical misconduct are in that position because of how they responded—or failed to respond—to the unethical actions of others (versus having committed the initial ethical transgression themselves).

It is regrettably all too common for individuals to become ensnared in the misconduct of others because of their failure to appropriately respond once they become aware of the ethical lapse. Among the criteria leaders will be judged on are:
- Addressing the issue in a timely fashion.
- Being fully transparent and disclosing the issue to all those who would be reasonably expected to be informed.
- Taking appropriate disciplinary action in the case of a subordinate employee.

A delay in responding is often viewed as a failure to respond. Not taking action consistent with the misconduct is also a potential area for criticism. Leaders who do not take appropriate and timely action with full disclosure will often be judged as harshly and may face similar consequences as the individual initially causing the ethical breach.
Third Level: What Others Did That You Didn’t Know About
Possibly most difficult to fully accept is that a leader is responsible for conduct in his or her organization even if they had no prior knowledge of the conduct. Although it might appear unfair to be held responsible for the conduct of others that you were not even aware of, as the leader you are ultimately responsible for the performance of an organization and the conduct of its members.

While it is not feasible, except potentially in the smallest of organizations, to be aware of conduct of all members of the organization, it is clearly possible to reduce the odds that a leader will be held personally accountable for such misconduct. Here are factors that can impact how the leader is viewed in such circumstances:

- Have you undertaken preventative steps including ethics training and being clear concerning organizational ethical expectations?
- Has your organization provided multiple avenues for employees to report ethical concerns?
- Are you viewed as a leader who gets “out and about” in your organization, or are you almost always working behind a closed door in your office?
- Have you personally made it clear that you are open to and willing to hear “bad news” without “shooting the messenger”?
- How quickly and effectively did you respond when the issue comes to light?

While no amount of preventative work will immunize you and your organization from all risk, being able to demonstrate that ethics and integrity was a known organizational priority before an ethical scandal will significantly impact the consequences.

In order for the leaders of organizations to be viewed as effective ethical leaders, and to help their organizations be effective in terms of ethics and integrity, they need to be aware of their three levels of organizational responsibility and conduct themselves accordingly.

Kevin Duggan, ICMA-CM, ICMA Ethics Guest Author, West Coast Regional Director and ICMA Ethics Trainer, Mountain View, California, kduggan@icma.org.

Reprinted with permission from the January/February 2014 issue of Public Management (PM) magazine published and copyrighted by ICMA (International County/City Management Association), Washington, D.C.
A 26-year veteran police officer’s “venting on Facebook” about her department’s decision not to send officers to attend the funeral of an officer killed in the line-of-duty in another community was not protected speech under the First Amendment, the federal District Court for the Northern District of Mississippi has ruled. Graziosi v. City of Greenville, No. 4:12-CV-68-PM-DAS (N.D. Miss. Dec. 3, 2013). Granting summary judgment in favor of the employer, the court ruled that the plaintiff, who was terminated following the Facebook post, failed to establish a claim for retaliatory discharge in violation of her First Amendment rights.

Facts
Susan Graziosi served as a police officer of the Greenville Police Department (“GPD”) in Mississippi for 26 years until she was terminated for posting comments on Facebook regarding the Chief of Police’s decision not to authorize attendance at a police officer’s funeral in a neighboring town, a little over two hours’ drive away. Graziosi wrote on the Mayor of Greenville’s Facebook page:

I just found out that Greenville Police Department did not send a representative to the funeral of Pearl Police Officer Mike Walter, who was killed in the line of duty on May 1, 2012. This is totally unacceptable. I don’t want to hear about the price of gas . . . . Dear Mayor, can we please get a leader that understands that a department sends officers [to] the funeral of an officer killed in the line of duty?

Graziosi also made other comments on Facebook disparaging the Chief of Police’s leadership, including: “we had [something] then that we no longer have – LEADERS . . . . If he suddenly decided we ‘couldn’t afford the gas’ (how absurd – I would be embarrassed as a chief to make that statement)[,] he should have let us know so we could have gone ourselves;” and “If you don’t want to lead, can you just get the hell out of the way.”

First Amendment Claim
To prevail on a First Amendment retaliation claim, a public employee must establish that (1) she suffered an adverse employment action; (2) her speech involved a matter of
public concern; (3) her interest in speaking outweighed the governmental defendant’s interest in promoting efficiency; and (4) the protected speech motivated the defendant’s conduct. *Gibson v. Kilpatrick*, 2013 WL 5806947 (5th Cir. Oct. 29, 2013).

**Not Protected**

The district court ruled Graziosi’s speech was not protected by the First Amendment as it did not involve a matter of public concern. The court observed Graziosi’s posts, although on a sensitive subject, were related to her own frustration regarding the Chief’s decision and were not intended to help the public.

The court also ruled that even if she could establish her comments were a matter of public concern, the “ability of a police department to maintain discipline and good working relationships” was a “legitimate governmental interest” that outweighed her interest. It found Graziosi’s comments disrupted the Chief’s leadership within the department and could divide the department. Thus, Graziosi’s comments did not enjoy First Amendment protection, and the court granted summary judgment to the police department on her retaliatory discharge claim.

Both private- and public-sector employers are affected by issues relating to social media. It is important that employers maintain policies and procedures to address employee misconduct consistently.

Please contact Christopher E. Hoyme, Attorney at Law, Jackson Lewis P.C. at hoymec@jacksonlewis.com or 402.827.4232 or visit www.jacksonlewis.com if you have any questions.

© 2014, Jackson Lewis P.C. This Update is provided for informational purposes only. It is not intended as legal advice nor does it create an attorney/client relationship between Jackson Lewis and any readers or recipients. Readers should consult counsel of their own choosing to discuss how these matters relate to their individual circumstances. Reproduction in whole or in part is prohibited without the express written consent of Jackson Lewis.

This Update may be considered attorney advertising in some states. Furthermore, prior results do not guarantee a similar outcome.

Jackson Lewis P.C. represents management exclusively in workplace law and related litigation. Our attorneys are available to assist employers in their compliance efforts and to represent employers in matters before state and federal courts and administrative agencies. For more information, please contact the attorney(s) listed or the Jackson Lewis attorney with whom you regularly work.
Managing E-mail

By Jeff Davidson

Despite ever-sophisticated e-mail software with dazzling features and spam filters, managing the daily e-mail beast is becoming more difficult. Certainly, vital messages received in the course of the day or week merit a significant allocation of resources.

While e-mail, instant messaging, text messaging, and all other forms of electronic communication take the place of face-to-face interactions, special deliveries, and meetings, all of those functions — as convenient and critical as they might be — do not represent a substitute for you taking control of your activities and time.

Here are guidelines on managing e-mail:

Avoid sending complaints by e-mail. If you have a complaint or grievance, it’s best to phone it in. There are subtleties in your voice that can’t be conveyed by e-mail. Also, you don’t know when and where someone might retrieve your message, and depending on the level of your dissatisfaction, he or she might take things totally out of context.

If you receive a complaint from an e-mail correspondent, get on the phone and try to quickly resolve the issue. If you respond by e-mail, you might be lucky and resolve the issue then and there, or you might incur a long trail of messages back and forth that, after considerable effort, finally equal the same solution that you could have devised over the phone in a matter of minutes.

Use e-mail only during the workday. People resolutely believe they need to be on call all day. This means addressing e-mails that come in after hours and on weekends. Most senders don’t expect you to respond as soon as you receive the message; they simply were getting the issue off of their proverbial desks.

By responding during the workday and avoiding messages that arrive after hours and on weekends, you can train your frequent correspondents as to when you actually will reply — and their expectations will align accordingly.

Use meaningful and coherent subject lines. Avoid words that spammers frequently use and keep the subject line as short, relevant, and understandable as possible.

“Yes, let’s proceed with the ABC project” is perfectly suitable, for example, because it gives the recipient a quick answer, identifies what the topic is about, and alleviates your need to have an extended response in the message area. On the other hand, “Re:,” “Forward:,” or such cryptic subject lines as “The issue is not one easily resolved” are not nearly as helpful to recipients.

Some people argue that maintaining the same subject line back and forth creates a trail and proves to be effective for both parties. But is it? Sending e-mails with clear and enhanced subject lines as a situation unfolds helps keep order.

Stay on focus. It’s tempting to want to combine multiple issues within a single e-mail. However, single-focus messages, particularly when there’s some level of complexity involved, are preferable. For maintaining clarity of issues, for filing purposes, and for long-term productivity, one issue per correspondence trail works best.

Avoid attachments. If you can, avoid attachments particularly to first-time correspondents. When you can, offer the message within the message area. You have a
higher probability of it being read. People are leery of attachments, especially ones with large byte counts.

**Proofread, proofread, proofread.** A fair amount of slack is allowed in the transmission of e-mail messages. Your grammar doesn’t have to be the King’s English; you can have typos and spelling errors. Still, a proofread message is superior to one that is not.

Remember: Your e-mail is not private. From news accounts, we know that nothing sent using the Internet is private. A host of federal government agencies, as well as private corporations and Internet providers, can tap into your private correspondence with tremendous ease.

**Facebook is not always your friend.** Google has collected more information on you than you ever imagined. Everything that you do on the Internet can be captured and preserved for all eternity.

**Use a reply-by-(date) folder.** When waiting to hear about a particular issue, it’s good to park such e-mail messages in a reply-by-(date) folder. Checking this folder allows you to quickly surmise who has been giving the answers you seek in a timely manner and who has not. Such a folder also provides an opportunity to send correspondents a gentle reminder that you await their reply.

**Handle quick-response messages immediately.** When a message requires a quick response like yes or no, go ahead and reply. This may seem like commonsense, but professionals often allow these messages to mount up. Then, even though each one would only take a minute or less to address, the accumulated burden of tackling them all begins to loom large. Don’t allow the buildup, and you’ll forgo the issue altogether.

**Unsubscribe with vigor.** In a quest to stay on top of it all, each of us too often subscribe to information services that looked enticing at the time. Then we find ourselves oversubscribed. We receive constant reminders that a new issue from this magazine or a new report from this vendor is available, and all we have to do is “click here.”

So, with resolve, unsubscribe to as many items as you can and then magically, you’ll find that you don’t miss most of them.

Jeff Davidson is principal, Breathing Space® Institute, Raleigh, North Carolina. An author and presenter on work-life balance, he holds the world’s only registered trademark from the United States Patent and Trademark Office as a “Work-Life Balance Expert.”

Reprinted with permission from the January/February 2014 issue of Public Management (PM) magazine published and copyrighted by ICMA (International County/City Management Association), Washington, D.C.
A Snapshot of Healthy Corner Store Initiatives

For many Americans, buying fresh fruits and vegetables is as simple as walking a few blocks to the neighborhood grocery store or getting in the car and driving a short distance to the supermarket. There are many, mostly low-income people however, who do not have such easy access to healthy, affordable foods. For these Americans, the long distance between home and supermarket, coupled with a lack of public transportation options and/or privately-owned transportation, limits their ability to maintain a healthy diet. Communities in which residents are unable to easily overcome the geographic disparity between the location of their residence and healthy food retailers have increasingly been described as food deserts. The U.S. Department of Agriculture (USDA) defines food deserts as areas in which “at least 500 people and/or at least 33 percent of the census tract’s population must reside more than one mile from a supermarket or large grocery store.”

An estimated 23.5 million people in the U.S. live in communities without access to healthy foods. The USDA has developed the Food Access Research Atlas to help identify such areas. Within these areas, the primary food retailers tend to be small food stores, i.e. convenience stores, corner stores, small rural markets, bodegas, etc. A study done in 2008 by the California Center for Public Health Advocacy, PolicyLink, and the UCLA Center for Health Policy Research found that there is a 20 percent higher prevalence of obesity and a 23 percent higher prevalence of diabetes among adults living near abundant convenience stores, compared to those who live near supermarkets and produce vendors.

In response, city and community leaders are promoting healthy neighborhoods by encouraging small food shops to provide nutritious, affordable options for residents living in food deserts as a means to address the lack of access to healthy and affordable foods and contribute to improved nutrition and health outcomes. Many city-led or city-supported programs nationwide focus on enabling corner stores and smaller markets located in food deserts to provide healthy foods. These programs vary in scope, geography, the types of incentives they provide, and the policies they utilize to improve access and consumption of healthy foods. For instance, programs that are larger in scope are able to encourage small food markets to sell

BRIDGING THE FINANCING GAP

Sometimes projects need a boost when trying to cross over from concept to reality. AE2S Nexus helps bridge that gap. We focus on creating solid plans, aggressively pursuing funding options, and assisting you with implementation to make sure your project is on solid ground.

SERVICES

• Utility Rate Analysis
• Funding/Financing
• Project Development and Administration
• Economic Development
• Asset Management

AE2S Nexus
The Financial Link
A Division of AE2S (Advanced Engineering and Environmental Services, Inc.)

www.AE2SNexus.com
healthy foods by offering training, marketing materials, technical assistance, refrigeration equipment, and even vouchers for fruits and vegetables. Through incentives, these programs encourage stores to add new, healthier items to the shelves. Other programs work with community leaders and interested small food shop owners to make healthier options more visible in stores and more available to the public. In addition to increasing access to healthy foods, these programs can promote neighborhood economic development because they include business development components for participating store owners. Finally, these programs also encourage community development through engagement with neighborhood groups and citizens.

This guide highlights the efforts of four cities:
- Tupelo, Mississippi
- St. Louis, Missouri
- Philadelphia, Pennsylvania
- Minneapolis, Minnesota

Each of these cities is taking action to increase access to healthy and affordable food in their communities. The city programs highlighted here vary in size and scope and are intended to provide a snapshot of the range of opportunities that city leaders have to address issues of healthy food access in their communities. Tupelo, Mississippi’s Health on a Shelf program provides incentives for small food owners to prominently display healthy food options in their stores. The City of St. Louis’ Healthy Corner Store Project necessitates direct engagement between local government departments, the community, and corner stores to increase nutrition education and expand access to healthy and affordable foods. As part of the Get Healthy Philly Initiative, the city and its partners work with over 600 local corner stores to provide healthier food options. And since 2008, when the City of Minneapolis passed an ordinance requiring small food stores to carry at least five varieties of fresh produce, the city and its partners have worked with these small stores on education, planning, and implementation to provide healthier food options to residents.


What I’d Do Differently . . .
Looking back to help managers move forward

By Steven Spina

Local government professionals do not always have the opportunity for a do-over on the job. Managers learn from their mistakes, often reading about them in print and online websites, and vow to do better next time.

An important part of being a professional is to mentor others and to help them avoid the mistakes made by their predecessors. As a retired city manager who now serves as a visiting instructor of public administration, I have looked back at some of the more practical issues that happened during my management career.

Here I offer insights to what I learned so others might benefit from my experiences. I also want to include how I could have improved my decision-making processes, as well as my relationship with elected officials.

This review involves three major areas: taking the advice of the city or county attorney, dealing with council conflict, and managing employee relations. I also offer a brief synopsis of some things I got right while on the job.

The Legal Realm
City attorneys are an integral part of the local government management team, yet their presence is not often discussed in management seminars or academic literature. I found attorneys I worked with to be helpful for several reasons.

First, they are removed from the day-to-day operations of a local government and thus, can be removed from the daily frictions that might occur between managers and elected officials or managers and staff. Also, based on their training, attorneys are often more detached from the emotional aspects of arguments that may surface in a local government.

In the legal analysis by an attorney, something is legal or it is not and meets statutory requirements of an ordinance or it does not. A calm head in a heated debate is always welcome, especially when the person offers insight and clear guidance based on facts, not emotion.
Several times in my tenure as manager, input from the city attorney was welcome and usually spot-on. Unfortunately, sometimes I failed to heed that advice, which led to trouble. On one occasion, I received advice from the city’s labor attorney regarding termination of a city employee that had occurred the year before.

The attorney suggested that due to the length of time since the termination and the cloudy issues of the matter that we let the termination stand and move on. After we had discussed the issue, I decided it was important to know the facts of the termination. Reopening the case to review resulted in disruption, recriminations back and forth, a lawsuit, and eventually, settlement of damages. All of which would not have occurred had I followed the attorney’s advice.

During a controversial communitywide debate, the city attorney came to my defense and rescue—and that of council—on more than one occasion. We were hearing charges from residents that a city ordinance was not followed and that staff failed to bring it up (which did happen) and that councilmembers failed to follow its tenets (which they did not).

It was the legal interpretation from the city attorney that cleared the air and resolved the issue based on her finding that council’s legislative powers extended further than the limits of the ordinance in question. The attorney was able to diffuse a difficult situation based on her knowledge of the law and espousing facts, not mere opinions.

In the legal analysis by an attorney, something is legal or it is not and meets statutory requirements of an ordinance or it does not. A calm head in a heated debate is always welcome, especially when the person offers insight and clear guidance based on facts, not emotion.

Council Conflicts
Conflict in local government management is inherent, and life in local government often is fraught with conflict and turbulence. Many times managers are the target of confrontation and conflict from an elected official unhappy with how a situation was handled or simply unhappy with that particular manager.

We Believe in the Best for Your Employees

At Delta Dental of South Dakota, 98% of South Dakota’s dentists are in our network. We provide your employees with the widest network and the most choice in finding their favorite dentist in state and nationwide. With a dentist chosen from our network, your employees can benefit by paying lower out of pocket expenses.

Delta Dental is dedicated to keeping your employees’ smiles healthy. If you’d like to learn more about how Delta Dental can maximize your benefit dollars, or to purchase a plan, please call your agent today, or contact our sales department.

Delta Dental of South Dakota
1.800.627.3961
deltadentalsd.com
sales@deltadentalsd.com
Too much conflict can result in a manager moving on to a new community. There are methods, however, to diffuse situations, to lessen conflict, and to resolve professional differences between managers and elected officials.

One thing I would do differently in a confrontational relationship with an elected official is to lower my own level of hostility. It is difficult to have an argument alone, and when only one person is directly antagonistic, the hostility level should decline.

This is not to say managers should not defend themselves, but taking the rhetoric down a notch helps lessen the tension. Managers are better suited to seek middle ground with obstinate councilmembers rather than try to match them head-to-head.

The best advice is to try to discuss the problem with the elected official one-on-one, in the privacy of one’s office if possible. If not, it may be helpful to bring in a third party to facilitate the conflict and work to build a more positive relationship. In some local governments, the mayor (if it will not violate sunshine laws) may be useful as a mediator. Others might look to the outside for a neutral third party.

Conflict is another arena where an attorney can be helpful. City attorneys are schooled in mediation, and with that training, may be able to work to lessen discord and help remind both parties of the different roles of their positions, sometimes a major area of concern and misunderstanding.

While managers have been educated that the dichotomy in public administration is clear-cut, the roles of administration and politics do blur and carry over into each domain. Several times, my community’s attorney sat in on a meeting simply to help keep the discussion going in the correct direction.

It is important for managers to keep conflict under control. First, conflict drains energy away from the true mission of the local government: providing services to its residents and meeting their needs. Conflict can become center stage and draw others into it, including elected officials, staff, and residents.

Conflict can also draw the media’s attention, which might embellish it and help keep the feud going. Another important tip to managers: Be extremely careful of comments made to members of the press about an elected official.
A comment made in jest or seemingly innocuously looks and reads more sinister on the front page of a newspaper story or a blog. It looks even worse when it is drawn out of a story and published in large, boldface type beside your photo.

When all else fails, outside mediation or hiring a facilitator can be helpful. My city went this route when workshops were held to resolve issues between the council and the manager. There were differences of opinion on managing departments and council’s role in day-to-day activities.

An outside facilitator, himself a former city manager, helped to clear the air, review the city charter, and give all members of the leadership team—including the council, manager, and mayor—time to discuss their roles, perceptions, and methods to govern effectively. It was definitely a successful exercise.

Personnel Management
There are two ways that managers are hired: They can be promoted from within or hired from outside an organization. Both methods can cause the manager problems once he or she is in place.

For the manager hired from within, there can be relationship issues that must be rearranged and resolved. Once one of the gang of department heads down the hall, the new manager must find a way to separate from the crowd, yet maintain a positive working relationship.

As a manager who was hired from within, I struggled to balance the differences and sometimes erred on the friendship side over the manager side. It made dealing with personnel issues more difficult, including disciplinary actions or terminations.

For the new manager hired from the outside, relationship issues are different. The new manager must become familiar with various departments and their managers and at the same time, learn who is supportive and willing to work together and who may be the type to attempt to get into the manager’s good graces on superficial terms.

Often, a manager who previously worked for another community has an easier time with disciplinary issues because he or she does not have the personal associations that may hamper a manager who has a longer and perhaps more personal history with an organization.

Terminating a department manager is perhaps among the most difficult tasks a manager must face. Frequently, higher-level terminations receive press coverage, input from
Some Practical Advice
Here are simple tips that can help you be a successful manager:

Return telephone calls and e-mails. This may be an easy-to-say, but managers can fail in this regard. Another part of this issue is that phone calls and e-mails can come directly to the manager’s phone or computer, bypassing an administrative assistant.

Without a memo slip from an assistant, it is sometimes difficult to remember to write down a message or to respond to other correspondence. It is an important aspect of the job because residents, elected officials, and local business members will remember if you called them back or not.

Be involved in your community. If Main Street is hosting an event downtown, be there in support. Provide city support as well with regard to offering barricades, extra trash barrels, and city streets or parks staff to help if necessary. Follow the same tactics with other community organizations. Being visible is a great way to support the community, meet citizens, and be available for questions or comments. It also helps support elected officials, many of whom may have community associations as their pet projects.

Talk to people who are downtown, at the shopping mall, or at the grocery store; host a coffee and invite residents to attend; or join in the local 5K run. Public managers are just that—public—and it is an important facet of the job of a local government manager. It’s why we do what we do.

Steven Spina, PhD, Visiting Instructor, Department of Public Administration, School of Public Affairs, University of South Florida, Tampa, Florida. sfs@usf.edu.

Reprinted with permission from the January/February 2014 issue of Public Management (PM) magazine published and copyrighted by ICMA (International County/City Management Association), Washington, D.C.
American Association of Code Enforcement Conference Scholarship Application

Name:________________________________________________________________________________

Title:_________________________________________________________________________________

Email Address:_________________________________________________________________________

Mailing address:________________________________________________________________________

Number of years in Code Enforcement:____________________________________________________

What areas of Code Enforcement are you responsible for?____________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________

What do you hope to gain from your attendance at the AACE Conference?_________________________
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________

As part of the scholarship, the winner shall share their experience from the AACE Conference with the SoDACE membership during the next Annual Spring meeting. Is this something you are willing to do?______________

Estimate of Conference expenses:  

___________________ Airfare  

___________________ Hotel  

___________________ Transportation  

___________________ Meals  

___________________ Other: ___________________  

___________________ Total

Applicant must be a member of the South Dakota Association of Code Enforcement.

SoDACE will pay for roundtrip airfare, lodging for the conference dates only, AACE conference registration fee, transportation (taxi, airport shuttle; not rental car) and meals not included in the conference package. You are responsible for keeping all your receipts and submitting them to Christine at SDML for reimbursement. All reimbursement costs are subject to SoDACE board approval.

Please submit application to Christine at SDML (208 Island Drive, Ft. Pierre, SD 57532 or fax to 605-224-8655) by no later than July 1, 2014, to be considered for the scholarship. The AACE Conference is October 27-31, 2014 in Rosemont, IL. and information can be found at: http://www.aace1.org/.
Coping With Nasty

By Mike Conduff, ICMA-CM

When a management colleague called, our conversation went like this: “Mike, you are going to have to talk me down off the ledge! If the councilmember I told you about speaks like that to a staff member again, it may come to blows!”

I could palpably feel the tension and stress in my colleague’s voice across the phone connection. It was clear this was a major issue and that it had become personal.

His words remained clipped and forceful as he began to relate how, at just about every council meeting, the newest elected official singles out a staffer to give the third degree. He is an equal opportunity offender in that he passes it around, and he keeps getting worse.

His method is to ask involved, often obscure questions and to take copious notes. He then cross examines the staff member, trying to catch the individual in a misstatement or contradiction. When he finds one—and he always seems to find one—he tries to intimidate and humiliate the staff member.

My colleague admitted to having tried all of the methods that I had him use in the past. He had met with the councilmember one-on-one and met with the councilmember and the mayor. He had the mayor and another councilmember meet with the elected official too.

He had taken him to lunch, and he had called him the day of the meeting. He traveled with him to conferences and to state league meetings.

Assessing the Situation

Recognizing that this was incredibly serious for my colleague, I began to ask questions. My first one was “How does he treat you in those less formal environments?” The response was that outside of the council meetings, he was cordial if somewhat reserved, but at the meetings he was an attack dog.

My next question was to find out how the rest of the councilmembers react when the inquisitor starts in. The response this time was that they all look like they wish they were somewhere else, but none of them will challenge him in public anymore.

He treats them about as badly as he does staff if they cross him. Plus, he has contributed to several of their election campaigns, so they feel like they owe him.

My final question was to find out if my colleague thought the official was trying to chase him away from his current management position; however, that didn’t seem to be at the top of his agenda. He also didn’t think it would matter if he left. In fact, that most likely would embolden the official to become even more aggressive. At least right now, my friend could run some interference for staff.

Additional Coping Behaviors

I knew this was not a simple situation. After contacting my governance colleagues and some former elected officials who I respect and could talk with, I recommended several behavioral approaches:

- Stay calm and recognize it isn’t personal. The inquisitor would be acting this way irrespective of who sits in the manager’s seat.

---

SOUTH DAKOTA BASIC CODE

Affordable Codification for Small and Mid-Sized South Dakota Municipalities

A comprehensive model code of ordinances for municipalities featuring:

- Subject matter encountered by municipalities
- Annual state law updates
- A comprehensive index and a title devoted to your unique local ordinances
- Published by American Legal and the South Dakota Municipal League
- For more information call or e-mail deRicci Getty at 1-800-445-5588 or dgetty@amlegal.com
make sure staff is truly prepared. if this means practice sessions, extra packet review, or using more senior members for council appearances, be willing to invest resources in flawless presentations.

reach out even more. if this means a special one-on-one review of the agenda, it would be worth it to protect staff.

approach others for assistance. determine if there are individuals or institutions in the broader community that might be influential with the inquisitor and ask for their help.

remain professional at all times. while it is tempting to use the inquisitor’s tactics against him, this strategy simply reflects badly on the manager, the staff, and the community. it also emboldens the questioner.

be patient. the emotional energy required to behave as an inquisitor and the lack of substantive response often results in short tenures for disruptive members.

respect democracy. like it or not, the inquisitor is elected and must be accorded the respect of the office.

i also offered these governance suggestions:

- review the council conduct component of the governance plan. most high-performing councils agree on such standards of behavior at meetings as treating each other and the staff with respect, not surprising staff at the meetings, and asking the manager questions in advance. if these are not in the plan, approach the mayor about revising the document.
- once the behavior standard is set, provide the mayor and council with the necessary training to be able to exercise enforcement of the standard. it is likely they are as chagrined as the manager about the behavior and would welcome alternatives as well.

the outcome
when i saw my colleague next, he said the elected official had resigned his position. after a high five, i asked why, and found out the member had a chance to take over a family operation in his hometown.

my opinion on this type of situation is that when you take the high road, life usually works out.

mike conduff, icma-cm, former city manager, president and ceo of the elim group of denton, texas, mike.conduff@theelimgroup.com.

reprinted with permission from the march 2014 issue of public management (pm) magazine published and copyrighted by icma (international county/city management association), washington, d.c.
Workers’ Compensation Dispute Resolution

Workers’ compensation claims management seems to begin with a general negative tone. Something “bad” happened in order for an employee to be talking to our office – they got hurt. Although the incident and injury are unfortunate, the claims experience does not have to be.

When a claim is investigated, we obtain information from the employer, employee, and medical provider(s). We may also request another medical opinion. It is our responsibility to determine whether the injury is compensable under South Dakota Workers’ Compensation statutes.

There are times when disagreements are unavoidable. If a claim or portions thereof are denied, the employee has two years to file a Petition for Hearing. This is basically filing a lawsuit, which usually involves attorney representation. Predictably, this process takes a substantial amount of time to resolve issues and may be costly.

There is an alternative to filing a petition — the employee may request mediation with the Department of Labor and Regulation. This is a telephone conference with Director Marsh, which may resolve the conflict. If it does not, the only other remedy for the employee is to file a Petition.

On July 1, 2006 new law went into effect which is under SDCL 62-2-12 to 62-2-22. This offers a small claims option to resolve disputes over medical expenses only where the injury has already been determined to be compensable. An injured employee files the case with the Department of Labor and Regulation (as opposed to the magistrate) and most hearings will be handled telephonically. Like small claims cases in court, the system is designed to be more user-friendly so lawyers are not necessary. And, the process is limited to disputes involving $8,000 or less. The decisions can be appealed to the Secretary of the Department of Labor and Regulation and then to the Circuit and Supreme Courts. When the small claims process became an option in 2006, we weren’t sure what effect it may have on the overall claims handling process. While other employees and insurance carriers may be using this option, we have never been involved in the process so it has not had any impact on the claims handling for SDML WC Fund.

More often, we are involved in the final available option to resolve a claim, short of litigating the Petition. This is mediation with an independent mediator. Mediation continues to be a reasonable option which may be requested by either party – the employee or Claims Associates. In nearly all of the cases, both parties are represented by legal counsel; both parties feel they have valid reasons for their positions; and all parties are agreeable to come to the table for a possible compromise.

Not all mediations are successful and some claims continue through the hearing process with possible appeals to the South Dakota Supreme Court. Mediation isn’t admissible in court and therefore any discussion or offers for settlement cannot be called into evidence. This protects the process and allows both parties to make their best good faith effort to resolve the claim.

Claims Associates, Inc works closely as a team to determine all options for dispute resolution with the assistance of outside legal counsel when necessary.

Jennifer Andrisen Selzler SCLA AIC CSRP SDWCS
Claims Supervisor, Claims Associates, Inc
**SDML**

**Directory Changes**

- **Bonesteel** Add: ADM/FO Cody Spann
- **Bridgewater** Delete: M Ronald Pringle
- **Eagle Butte** Delete: M Stephanie Davidson
  ATT Michael Whalen
  Add: FO Sheila Ganje
  sjganje@cityofeaglebutte.com
- **Garretson** Delete: CM Andrew Gilbert
- **Hot Springs** Delete: www.cityofhotspringssd.org
  Add: www.hs-sd.org
- **Humboldt** Add: FO Amanda Siemonsma
- **Lead** Delete: WS Robert Carr
  Add: WS Roger Thomas
- **Marion** Delete: CM Brian Burge
  Add: CM Jim Kettwig
- **Philip** Delete: CM Jason Harry
- **Scotland** Add: PC Elijah Schewe
- **Winner** Delete: BI & CE Casey Burrus
  Add: BI & CE Mike Brown

Due to upcoming elections this will be the last Directory Changes until after the 2014-2015 Directory of South Dakota Municipal Officials is printed in July.


---

**Life-Changing Events & Your Insurance Needs**

*Insuring South Dakotans since 1995. It’s our only business!*

From Maternity to Newborn to Elderly care, the HPSD is there every step of the way!

Call the SD Municipal League at **1-800-658-3633** for more information.

**Sponsored by:**
SOUTH DAKOTA MUNICIPAL LEAGUE
By Senator John Thune

Water from the historic Missouri River flooding in 2011 has receded, but the damage caused to homes, businesses, and communities remains fresh in the minds of many South Dakotans. In 2011, the snowpack runoff and heavy spring rain led to the highest recorded water levels in the region and forced the U.S. Army Corps of Engineers to make unprecedented water management decisions on the Missouri River that greatly impacted South Dakotans. While both the Corps and communities in our region have learned a great deal since 2011, more information is needed to ensure we properly prepare for and mitigate future potential flood risks.

This winter’s harsh, wet snowpack in the Central and Northern Rockies is reaching comparable levels to those of 2011. While reservoir levels and a number of other factors differ from 2011, there is a heightened concern about what this year’s high snowpack levels mean for river management and the threat of flooding along the river.

Critical to mitigating future potential damage along the Missouri is ensuring that communities and individuals along the river have access to information on current conditions and flood risks. I also believe these same individuals deserve regular updates on how the Corps is managing the reservoir system to limit the threat of flooding—particularly in light of the missteps in 2011.

To ensure the lessons learned in 2011 will inform prudent decision-making, I led the South Dakota, North Dakota, and Montana delegations in a letter on March 12, 2014, to Brigadier General John Kem of the U.S. Army Corps of Engineers calling on the Corps to provide information about the Missouri River flood prevention plans and actions the Corps has taken since the 2011 floods to update and repair the dams and other flood control infrastructure. A greater level of engagement and information sharing by the Corps with states, tribes, local officials, and other federal agencies is critical to informing river management decisions, particularly under extreme conditions.

I will continue to work with my colleagues in the Senate to review the Corps of Engineers’ river management operations and infrastructure updates, and to ensure it continues to provide a greater level of engagement and information sharing with residents along the Missouri.
SUCCEEDING TOGETHER
INVEST WITH CONFIDENCE

As a leading provider of solutions to the governmental market, you can count on Butler Machinery!

- Get Cat quality products along with local service and support.
- Save valuable effort and budget dollars. Eliminate the time and costs associated with developing, advertising and soliciting bids; waiting for vendor responses; reviewing detailed proposals and awarding contracts.
- Manage risk. Avoid the unpredictability of a low-bid scenario by investing in equipment that delivers reliable performance, long life and low operating costs.
- Optimize employee productivity. Assign your staff to higher-priority tasks, leveraging the administrative work already done by others.

TAKE THE NEXT STEP
Ready to take advantage of this cooperative purchasing program?
- Visit http://govbidspec.cat.com
- Or contact Butler Machinery

Butler
www.butlermachinery.com

© 2013 Caterpillar. All Rights Reserved. CAT, CATERPILLAR, BUILT FOR IT, their respective logos, “Caterpillar Yellow,” the “Power Edge” trade dress as well as corporate and product identity used herein, are trademarks of Caterpillar and may not be used without permission. www.cat.com www.caterpillar.com
MAY Community Events

May 1 to October 1
Mellette House Open
Watertown

May 2 to May 3
Platte Chamber Fishing Tournament
Platte

May 2 to May 4
South Dakota Birding Festival
Pickstown

Annie - Theatre Production
Mitchell

May 3
Spring Market (Jog for a Dog)
Rapid City

Korczak Day
Crazy Horse

4 parks, 4 hikes, 1 adventure
Canton

4 parks, 4 hikes, 1 adventure
Vermillion

4 parks, 4 hikes, 1 adventure
Beresford

May 4
Sangria Sunday at Strawbale Winery
Renner

May 6
Anne’s Day at Crazy Horse Memorial
Crazy Horse

May 8
Mom’s Nite Out at the Empire Mall
Sioux Falls

ZooCub Class - World’s Loudest
Sioux Falls

May 9
2014 Leadercast
Brookings

May 9 to May 11
Annie - Theatre Production
Mitchell

May 10
Main Street Square’s Spring Market
Rapid City

Pumpkin Bog Wine Label Contest
Hill City

ZooCub Class - World’s Loudest
Sioux Falls

Avera Race Against Breast Cancer
Sioux Falls

May 10 to May 11
Aberdeen ABATE/FM Crusaders
Bike Show & Dance
Aberdeen

Pari-Mutuel Horse Racing
Aberdeen

May 11
Historic Prairie Village Opening Day
Madison

Mother’s Day Brunch at
Prairie Berry Winery
Hill City

1880 Train Mother’s Day Express
Hill City

Sangria Sunday at Strawbale Winery
Renner

May 12
Rodney Mack Philadelphia
Big Brass in Concert
Mitchell

May 16 to May 18
Open House at Custer State Park
Custer

South Dakota Birthday Bash
Brandon

Dust Off the Dutch Ovens
Yankton

Disc Golf Demonstration
and Instruction
Corona

Kids’ Fishing Derby
Miller

Step Outside
Canton

Kites and Castles
Pickstown

Family Fishing
Garretson

Kids to Parks Day
Aberdeen

Super Diamond (Neal Diamond Tribute)
in Concert
Deadwood

Gordon Stockade Historic Site
Volksmarch
Custer

May 17 to May 18
1880 Train’s Appreciation Weekend
Hill City

South Dakota State Poker Championship
Deadwood

Pari-Mutuel Horse Racing
Aberdeen

May 17 to September 1
125th Birthday Card Hunt Kickoff
Canton

May 17 to September 30
Seasonal Volksmarch Trail
Custer

May 18
Sangria Sunday at Strawbale Winery
Renner

May 21 to May 25
Jersey Boys: The Musical
Sioux Falls
MAY Community Events

May 22
ZooCub Class - Soft and Fluffy
Sioux Falls

ZooCub Class - Nine, Ten, Animal Dens
Sioux Falls

May 23
Fiesta Friday!
Yankton

May 23 to May 25
Legendary Hart Ranch Rodeo
Rapid City

May 23 to May 26
Memorial Day Weekend Campsite
Decorating Display
Arlington

May 23 to October 13
Legends in Light® Laser Light Show
at Crazy Horse Memorial
Crazy Horse

May 24
Judy Collins w/ the BH Symphony
Orchestra in Concert
Deadwood

Extreme Campers Challenge
Brandon

Kids’ Fishing Derby
Arlington

Family Fun Amazing Race
Canton

Wishard Memorial Disc Golf Tournament
Fort Pierre

ZooCub Class - Nine, Ten, Animal Dens
Sioux Falls

ZooCub Class - Soft and Fluffy
Sioux Falls

Memorial Day Weekend Live Music at Prairie Berry Winery
Hill City

May 24 to May 25
SDRA Foothills Rodeo
Wessington Springs

South Dakota Kayak Challenge
Yankton

May 24 to May 26
Crazy Horse Memorial Day Weekend
Open House
Crazy Horse

May 24 to August 31
Grand Magic Show - Custer Show Barn
Custer

May 25
Walk the Fort
Pickstown

Sangria Sunday at Strawbale Winery
Renner

May 25 to May 26
Pari-Mutuel Horse Racing
Aberdeen

May 29
Summer Porch at Strawbale Winery
Renner

Summer Concert Series Kick-Off
Rapid City

May 29 to June 1
Argus Leader RibFest
Sioux Falls

May 30
10th Annual Custer Stampede Art Auction Unveiling
Custer

Public reception: Bob H. Miller & Shannon Sargent
Brookings

May 30 to May 31
34th Annual Stan Marshall Golf Classic
Brookings

May 30 to September 5
Summer Music Series at Prairie Berry Winery
Hill City

May 31
Madison Community Center Triathlon
Madison

Ron White in Concert
Deadwood

Bikes & Babes
Sioux Falls

Riverboats, Roads and Rails
Yankton

Kids’ Carnival at Main Street Square
Rapid City

Who Lives in a Tree?
Canton

Kids’ Fishing Derby
Bruce

Dutch Oven Gathering Night
Yankton

For more details visit www.travelsd.com.
American Council of Engineering Companies of South Dakota Members

Engineering for a better South Dakota since 1956

VISIT US! www.cecsd.org
CLASSIFIED ADS POLICY: Member municipalities receive free insertions and free postings on the League website. Non-member advertisers are billed $50 per insertion. All ads are subject to editing if necessary. The next deadline is April 15 for the May 2014 issue. Email ads to carrie@sdmunicipalleague.org or fax to 605-224-8655.

CITY ADMINISTRATOR: Mitchell, SD. This position shall be responsible to the Mayor for the proper administration of the day-to-day operations of the City. Must have the ability to communicate positively and effectively in both oral and written form to individuals and groups. The City Administrator will make recommendations of policies that will further the goals of the City and the improvement of City administration. Qualifications include a Bachelors or Masters Degree in Business, Political Science, Public Administration or closely related field, a minimum of 5 years experience in management and budgeting, and a strong knowledge of governmental operations. Wage range is $90,000 - $110,000. Applications and a full job description may be downloaded at www.cityofmitchell.org or at City Hall. Return applications to the Human Resource Department, City Hall, 612 North Main, Mitchell, SD 57301, no later than April 14th. EOE.

PUBLIC WORKS DIRECTOR: Alliance, NE (pop 8,900). Candidates should have a broad range of experience or be an assistant in a similar sized community or larger with a minimum of six years of previous public works experience to include street, sanitation, water and waste water; and some college or course work related to civil engineering, public administration or a closely related field. The preferred candidate would have ten years or more previous public works experience as director or assistant director in a similar sized community, possess a four year college or university degree in civil engineering, public administration or a closely related field, and possess a Grade II Water Operator License, Wastewater Lagoon Operator License and/or a Street Superintendent License. Salary Range: $58,000 - $79,600 DOQ. Position Profile available at www.cityofalliance.net. Send an application, letter of interest, resume and any questions by Second Main, Mitchell, SD 57301, no later than April 14th. EOE.

WATER/WASTEWATER SUPERINTENDENT/OPERATOR: Howard, SD. Work areas include but not limited to streets, snow removal, water, sewer and equipment maintenance. Will be required to become South Dakota certified in water and wastewater. Must have a valid driver’s license. Complete job description and applications may be obtained at the City Finance Office, P.O. Box 705, Howard, SD 57349, 605-772-4391. Open until filled. EOE.

WATER/WASTEWATER SUPERINTENDENT/OPERATOR: Jefferson, SD. Performs duties as assigned by the City Council. Work areas include but not limited to streets, snow removal, mowing, water, sewer and equipment maintenance. Superintendent will assist Street Superintendent when needed. Will be required to become South Dakota certified in water and wastewater. Must have a valid driver’s license. For complete job description including job duties, minimum qualifications, applications are available from Jefferson Finance Officer, P.O. Box 276, Jefferson, SD 57038, 605-966-5838. Open until filled. EOE.

NOTICE OF PUBLIC SALE: The City of Brookings, SD will be accepting bids for the sale of the following property: 2008 Elgin Sweeper, 1985 Tandem Dump Truck, and a 1993 Utility Box Pickup. The above items will be offered for auction, beginning March 26, 2014, at www.publicsurplus.com. The auctions will end April 11, 2014 at 3:00 p.m. The City of Brookings reserves the right to waive irregularities and to reject any and all bids. For information pertaining to this equipment, please contact Koss Delfinis, Brookings Street Department Superintendent, at 605-692-2016.

FOR SALE: City of Iroquois, SD. Tennant Street sweeper. Approximate year is 1997 with approximately 387 hours. This unit is powered by a 4 cylinder Ford engine, propane fuel with cab. It has a sweeping width of 5 feet with a front dump bucket. Has a nearly new main broom and side brush. Starts a little hard but runs perfectly once started. Best offer over $2250. Wanted: a small sand spreader. Call 605-354-8307 for information.

FOR SALE: City of Alcester. One Progressive Turfwerks Model TD 65-2 Tri-Deck Finishing Mower (used very little - great condition); heavy duty construction; open rear discharge; HD gauge wheels with tapered bearings; high lift blades for superior cut; blade speed of 3040 RPM’s; rear anti-scalp rollers; cutting width: 12’ (24” uncut circle); cutting height: 1” to 5” (easy height adjustments); cuts up to 8 acres/hour at 6 mph; tractor specs: recommended 40-60 hp tractor with 540 PTO and dual action hydraulics; folded width: less than 10’; primary use for parks, schools, golf courses or airports. Contact 605-934-2851.

FOR SALE: Call the City of Wilmot at 605-938-4811. 1975- 80’ Ford 4500 3 Cyl diesel Tractor (1516 hrs on gauge), with a Ford Backhoe HD-15 2’ bucket and a Ford HD Loader 6’ Bucket. Front tires 11L 16”, Rear tires 16.9, 24” industrial lug, $4,500 as is, where is. Howard Price Turf Blazer 727 Lawnmower (829 hrs on gauge), 3 cyl diesel water cooled engine, with a 3 blade 5’ front deck, 4 wheel front drive/back steer. $1,000 as is, where is. Elgin White Wing Street Sweeper 345 ci International truck engine, self-propelled with curb brush, $5,000. Rosco pull-behind 7 1/2’ Street Sweeper new brushes in 2013, newer 4 cyl., air-cooled Wisconsin type motor (50 hrs), $3,850.
Second Tuesday in April – The consolidated board of equalization meets and completes equalization in no more than three weeks. (SDCL 10-11-66 through 10-11-76; See Hdbk., sec. 12.120)

Within two days after the election is declared – The finance officer must notify all persons elected to office. The officials elected to office then have ten days after the first meeting of the month next succeeding the election to qualify for the office by filing an oath or affirmation of office. (SDCL 9-13-28) If the governing body chooses an election day other than the second Tuesday of April, as provided in SDCL 9-13, that Election Day must be established by January 14 of the election year. (SDCL 9-13-1)

Within seven days following the election – Election returns are to be canvassed. (SDCL 9-13-24; See Hdbk., sec. 7.600)

Three weeks from Election Day – If a municipality has passed an ordinance requiring a secondary election and no candidate in a race involving three or more candidates receives a majority of the votes cast, a secondary election shall be held three weeks from the date of the first election. Provisions for tie votes in the first election are also provided for. The person receiving the highest number of
of responsibility under the law. (SDCL 9-9-18 to 9-9-24; See Hdbk., sec. 2.590)

First meeting following election – In municipalities governed by a mayor and two commissioners, the board shall by a resolution adopted by a majority, assign and apportion between the members, all duties that are not assigned to the mayor. (SDCL 9-9-27; See Hdbk., sec. 2.595)

By May 15 – The secretary of revenue shall apportion the money in the local government highway and bridge fund. (SDCL 32-11-35; See Hdbk., sec. 12.255(6))

Tax levy – The governing body of the municipality may impose an excess tax levy with an affirmative two-thirds vote of the governing body on or before July fifteenth of the year prior to the year the taxes are payable. The decision to increase taxes must be published within 10 days of the decision (certain publication size restrictions apply), and may be referred upon a petition signed by at least five percent of the registered voters in the municipality and filed within twenty days of publication of the decision. The referendum election shall be held on or before October first preceding the year the taxes are payable. (SDCL 10-13-36; See Hdbk., sec. 12.170)

Last Monday of May – Memorial Day – State holiday (SDCL 1-5-1)

June elections – Follow the Municipal Election Calendar for all election deadlines.

---

**GP GFOA Conference**
May 14 - 15, 2014  Omaha, NE

- Up to 12 Continuing Professional Education Credits
- Topics include: Leadership in government, responding to changing expectations, complying with requests for information and open meetings laws, budgeting for outcomes, performance metrics, economic development issues, cybersecurity, federal grant reforms and the new single audit, healthcare update, and GASB update.

www.greatplainsgfoa.org
With GROWTH comes RESPONSIBILITY.

Being part of the South Dakota Business Community means being responsible to YOU.

Aviation
Streets and Highways
Sanitary Sewer and Water Utilities
Storm Water
Construction Services
Wetland Delineation/Mitigation
Environmental
Water Treatment
Wastewater Treatment
Traffic/Transportation
Bridges
Asset Management
GIS

14TH STREET IMPROVEMENTS
MINNESOTA AVENUE TO PHILLIPS AVENUE
SIOUX FALLS, SOUTH DAKOTA

For all your engineering needs contact
Alec Boyce
aboyce@sehinc.com
Mike Kuno, PE
mkuno@sehinc.com
Eric Hanson, PE
ehanson@sehinc.com
Rocky Keehn, PE
rkeehn@sehinc.com

SEH
Building a Better World for All of Us®
Engineers | Architects | Planners | Scientists
605.330.7000
800.325.2055
sehinc.com
South Dakota Public Assurance Alliance

Your Municipal League
Sponsored Program

The MAJORITY of the Municipal Entities protect their Taxpayers with Liability and Property Coverage through the SDPAA.

We have broad specialized coverage for public entities in the following areas:
- General Liability
- Automobile Liability
- Automobile Physical Damage
- Public Officials Liability
- Law Enforcement Liability
- Property Coverage
- Boiler Coverage

Volunteers, Appointed and Elected Officials are included.

All we cover are South Dakota Public Entities. You are our business.

For More Information Contact:

Hagan Benefits, Inc.
Liability & Property
877-273-1712
www.sdpaas.org

Sponsored by:

SDML
Workers • Compensation • Fund

Specializing in Workers’ Compensation for Public Entities

- Stable Rates
- Financial Stability
- Investments in SD Banks
- Free Loss Control

For more information, contact:

Insurance Benefits Incorporated
605-334-7252
Email: info@sdmlwcfund.com
www.sdmlwcfund.com

Sponsored by

SOUTH DAKOTA MUNICIPAL LEAGUE