Developing a Successful Exit Strategy

Reviewing The Nuts-and-Bolts Issues

Jack Manahan

Much has been written in recent years about why managers are forced to resign and how they can live through the experience. Indeed, this profession is supportive of its members in transition. I do not intend to duplicate these writings here. Instead, I would like to offer some practical suggestions on negotiating an exit under the best possible circumstances, once it has become clear that a manager is leaving.

First, it should be emphasized that the best time to get a good severance agreement is right after a person has accepted a job, when everybody is feeling warm and friendly. You may not, however, have any choice in the matter. When the mayor or commissioner comes into your office and tells you that a majority of the governing body wants you to move on, your first reaction may be to agree to leave immediately. You should, however, carefully probe the nature of the request to leave.

Although most members of the governing body may want you to leave, they may be unwilling to vote publicly to fire you. If this is the case, you should not agree to leave too quickly just because they want this to happen. Governing bodies often will go to great lengths to avoid public squabbles over whether a manager should go or stay. Even if the manager has a contract that specifies severance terms, the governing body may agree to more favorable terms in return for a cordial departure.

You will have to decide how much grief you will accept to keep the job for awhile, though this strategy has some obvious limitations. When you become the issue, your effectiveness in the organization and the community declines. Forget about getting the governing body to reconsider: you need to face the fact you are on your way out. A manager's ultimate goal should be to develop an exit strategy that will provide the greatest benefits, not that will allow him or her to stay on the job indefinitely. When the time is right, offer to resign if the governing body will agree to a list of proposals, which you just happen to have with you.

The timing of an offer to negotiate should be considered. This offer should be made while you still have supporters on the governing body to speak in your defense and insist that you be treated fairly. Over time, strong supporters can be worn down and become opponents anxious to see you leave so that the local government can move on. When this erosion has occured, it will become harder to negotiate a satisfactory exit package.

Consider who will negotiate on your behalf. The governing body can usually call on several people to represent its interests: the chief executive, the personnel office, and its attorney, to name a few. There are two alternatives for who will best represent the manager's interest: the manager or an attorney representing the manager. The bottom line here is that if the locality uses a lawyer, the manager should, too.

At the very least, an attorney should review any agreement before the outgoing manager signs it. Unless the manager has a thorough knowledge of this area of the law, the author recommends that managers retain attorneys versed in their state employment laws. This tactic allows the manager to maintain some professional distance from the negotiations while continuing to do his or her job. It will send a signal to the governing body that this is an important matter to the manager and that the manager intends to protect his or her interests.

In small jurisdictions, it may be difficult to find an attorney without a conflict of interest or other connection to the local power structure, so it may be necessary to hire an attorney from another community. Managers who have hired an attorney agree that the cost is worth it. One manager I know paid his attorney about $500 for help in negotiating an agreement worth nearly $100,000.

Negotiating Tips

In preparing for the actual negotiations, there are two key concepts to remember in obtaining an exit agreement that is favorable to you:

Time equals money. In fact, time may be easier to negotiate for than money. The experts say that it is usually easier to find a job while you are working, so trying to stay on the payroll awhile may make some sense, if the parting is friendly. There are two key dates to consider in these negotiations: the date that you announce your resignation, and the date that you actually leave the job.

As an example, when I went through a forced resignation a few years ago, I was told in late June that a majority of the governing body wanted me to leave. I had previously planned to be out of state for two weeks beginning in mid-July, so we agreed that discussions on specific terms would be put on hold until I returned. In the meantime, I retained an attorney knowledgeable about municipal employment law in my state to handle direct negotiations with the city's attorney.

In negotiations, it was agreed that I would announce my resignation in late August—about two months after I was asked to leave. We further agreed that the resignation would be effective two months later, at the end of October, at which time my severance pay would begin. Thus, although my contract called for no more than four months of severance pay, I gained about four additional months, during which I remained on the payroll earning income while actively seeking other employment.

You can negotiate for many things that have value, if they do not involve the locality's putting out more cash to you. In other words, the governing body may not see something as having a cost if it does not result in additional money being paid directly to you. The significance of this concept is that you can use it to bargain for noncash benefits that you may need.

Here are some items to consider that will not be direct, out-of-pocket costs to your soon-to-be former employer but that may benefit you:

- Printing. Many governments do their own printing. You will have to print resumes, lists of references, and other job-hunting materials somewhere. Ask the local government to do this.
- Postage. You may be able to get the city or county to allow use of the postage meter.
- Secretarial and telephone assistance. This may not mean much to some managers, but to those who are not computer literate, this point may be important. Continued use of the city hall phone number to take messages and to make outgoing calls may be helpful in professionalizing your job search.
- Fax machine and computer. These will be valuable if you do not have them at home.
- Other job-hunting expenses. Be sure to ask for reasonable time away from the job for interviewing and job-hunting activities.
- Continued employee status. This can be beneficial, as it keeps the clock running for time credit for state retirement or other employee benefits. In return, you can agree to be available for consultation during the transition or for specific projects. (A manager probably would do this anyway but should be able to get something for it.)
- Payment of severance over time (due to continued employee status). Taxes withheld will be less than if the severance was paid in a

New ICMA Resources

A new ICMA handbook can help public executives prepare a contingency plan for the worst-case scenario: being fired! *The Fallback Position: A Manual for Local Government Managers, Executive Directors, and Others Reporting to Governing Bodies,* written by John Arnold, former manager of Eureka, California, provides advice about personal and financial actions that can be done right away. The handbook (item number 41096, $11.95) includes a sample termination agreement and reading list. To order, call the ICMA Distribution Center at 800/745-8780.

ICMA, in partnership with the Innovation Groups, has published *The Public Executive's Complete Guide to Employment Agreements,* authored by Ron Holifield, city manager of De Soto, Texas. This guide, with an accompanying diskette, discusses the merits of an employment agreement, how to evaluate if a particular job and relocation make sense, how to sell the agreement to an elected body, and how to negotiate it. The 3.5-inch diskette includes sample wording so that an agreement can be tailored to an individual's particular job situation. To order, contact the Innovation Groups, Tampa, Florida, at 813/622-8484; fax, 813/664-0051.

lump sum.

- Good professional reference. I recommend that you negotiate for a single spokesperson to be the governing body's official reference.
- Agreement by the parties not to make statements critical of the other. If you have agreed to a single spokesperson for any public statements, this arrangement will keep things on a professional basis.
- Agreement by the city not to protest a claim for unemployment compensation. Even if you receive severance pay, the individual still may be eligible for unemployment compensation.

Go Ahead, Ask for It

If managers start out asking only for what is fair, they usually will end up with something less than what is fair. As with most negotiations, ask for some items that can be traded for items really wanted. Use your imagination, and consider asking for things not usually given. One local government I know of agreed to give its departing manager title to his city-owned vehicle, which was about to be traded, for a nominal sum.

One manager I know asked for outplacement services. Still another negotiated to have the value of his accumulated sick leave, not normally paid out in cash, applied to his costs for state retirement contributions, COBRA health insurance premiums, and health insurance premiums beyond the 18-month COBRA period in the event that his time "on the beach" outlasted his severance pay. The governing body did not see these items as involving additional cash, so it agreed.

If you take such a benefit as unused vacation in cash, the cash payment will generally be taxed as income. For this reason, consider *not* taking all that you are entitled to in cash. Instead, negotiate to use the cash value of the benefits for costs that you would otherwise incur, such as your portion of health insurance or retirement contributions. If you do this, make sure that the agreement specifies that you may not take the benefits in cash, to avoid any tax questions later. Consult your tax adviser for advice in this area.

Concern for All Parties

Some who read this may see these comments as rather cold and calculating. A deep concern for what is best for the community is ingrained in all managers. I strongly believe that it is in the community's best interests to treat its departing manager fairly, and most communities will do so. As a professional, you have earned the right to a reasonable and dignified severance arrangement, and you must consider what is best for you and the security of your family.

Prospective new managers read the newspapers, do their homework, and talk to acquaintances in the area. If the local government treats its manager unfairly, this action will impair its ability to attract qualified applicants, not only for the manager's position but also for other positions. And professional local government managers do want communities to be able to attract and retain good staff.

After the best possible exit agreement has been negotiated, be sure to contact ICMA to let the Association know your status. Ask to have your name listed as "in transition" in the *ICMA Newsletter*. It is important to let your network of colleagues across the country know that you are a free agent. A portion of membership dues provides services and support for managers in transition. ICMA provides a packet of information on how to deal with the situation emotionally, financially, and professionally.

Jack Manahan is the county administrator of Peoria County, Illinois. He is a former chair of ICMA's Academic Affairs Task Force and one of ICMA's appointments to the National Advisory Council on State and Local Budgeting. The author is grateful for the comments and suggestions contributed by Illinois managers and by Illinois Range Rider Bob Morris.