

Municipal Management Series

**Managing Human
Resources:
Local Government
Cases**



The International City/County Management Association (ICMA) is the professional and educational organization for appointed administrators and assistant administrators in local government. The purposes of ICMA are to enhance the quality of local government and to nurture and assist professional local government administrators in the United States and other countries. To further its mission, ICMA develops and disseminates new approaches to management through training programs, information services, and publications.

Local government managers—carrying a wide range of titles—serve cities, towns, counties, councils of governments, and state/provincial associations of local governments. They serve at the direction of elected councils and governing boards. ICMA serves these managers and local governments through many programs

that aim at improving the manager's professional competence and strengthening the quality of all local governments.

ICMA was founded in 1914, adopted its City Management Code of Ethics in 1924, and established its Institute for Training in Municipal Administration in 1934. The institute, in turn, provided the basis for the Municipal Management Series, generally termed the "ICMA Green Books."

ICMA's interests and activities include public management education; standards of ethics for members; the *Municipal Year Book* and other data services; urban research; newsletters; a monthly magazine, *Public Management*; and other publications. ICMA's efforts toward the improvement of local government management—as represented by this book—are offered for all local governments and educational institutions.

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Municipal Management Series

Managing Human Resources: Local Government Cases

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Editor
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Municipal Management Series

Managing Human Resources: Local Government Cases
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Foreword

Some of the most important decisions that a local government administrator makes are those relating to the management of human resources. These decisions—about what kind of atmosphere to promote in the workplace; who to hire or promote; how to provide appropriate employee support, motivation, and rewards; how to get the most production and the best quality performance from each worker—determine what work is performed and how well it is performed. These decisions ultimately determine the well-being of the community.

This book, the third in the International City/County Management Association's (ICMA) local government case studies series, is designed to give readers a taste of the complex issues that affect human resource decisions in today's local government organization. The cases it presents can help practicing administrators sharpen their human resource decision-making skills and compare their decisions with those of other administrators who have successfully tackled such problems. These cases can also help prepare future local government administrators for the kinds of decision problems that will form the very essence of their careers in local government management.

The book is also designed to supplement the standard courses on human resource administration—those focusing on personnel matters specifically and those looking at human resource management within the broader context of organizational theory and behavior. As such, the book is intended to help the typical M.P.A. curriculum better meet the "Guidelines for Local Government Management Education," developed and adopted in 1992 by both the

National Association of Schools of Public Affairs and Administration (NASPAA) and ICMA. Those guidelines, distributed by NASPAA along with its accreditation standards, suggest that, to prepare students for local government management careers, courses in the NASPAA core curriculum "should integrate local government concepts, issues, and examples so that local government management students are familiar with what is generic as well as distinct about the context and administration of local governments" (p. 3).

To achieve this purpose and to bridge the gap between human resource management in its generic and local government manifestations, this book presents six case studies that challenge the reader to apply human resource concepts within the policy-making environment of community government. At the same time, it introduces the readers to the complexity of political/administrative tasks that are routine challenges in local government.

Each case presented in this book represents an actual situation that a practicing local government manager had to resolve. Each was written, at least in part, by the administrator who faced the problem situation in the real world and ultimately had a hand in making the final decision, and so each presents the problems and issues as they were actually perceived by the people who had to act on them. But while all of these cases are factually accurate in their critical components, ICMA and the editor do not intend for them to be regarded as wholly accurate portrayals of the events on which they are based. Thus, to protect the parties involved, all cases use fictitious names and have been edited to clarify issues and eliminate extraneous detail. And

in one case, the author has asked that the study be published anonymously to protect further the privacy of those involved.

These six case studies capture the flavor of local management, not by giving readers information to use in solving problems, but rather by describing the complex legal, environmental, and human considerations that lead up to a managerial decision challenge and then throwing the decision into the reader's lap. The cases thus provide a basis for simulated policy deliberation, not a formula for problem resolution. Each case concludes with a set of questions designed to focus the reader's attention on key issues and to foster and enrich the deliberative process.

To make the cases more challenging for instructional purposes, the decisions actually reached and their resulting consequences are contained in a supplement to this book, *Supplement to Managing Human Resources: Local Government Cases*, which is available separately from ICMA. Because these outcomes have been omitted from this book, students will have to resolve the problems on their own before they learn, at their instructor's option, what decisions were ultimately made by the administrators involved and what actual consequences ensued.

ICMA is grateful to the editor, James M. Banovetz, for his work in preparing this book; he accomplished the early planning and design for it while serving in the Albert A. Levin Chair of Urban Studies and Public

Service at the Maxine Goodman Levin College of Urban Affairs at Cleveland State University.

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Matrix of coverage

A major advantage of the case approach to teaching is the flexibility it offers the instructor. Following is a matrix listing topics that are typically covered in human resources, urban management, and other public administration courses, with an indication of the cases that relate to those topics. As the matrix shows, these cases can be used with virtually any course outline and in conjunction with a wide selection of other materials.

Subject	Case number					
1. Kind and level of government						
Medium city			3		5	6
Large city	1	2		4		
2. The context of government						
Politics						6
Administration and politics	1				5	6
Law and administration	1		3	4		
Administrative leadership	1	2			5	6
Public relations		2	3			6
Public-private interface						6
3. Human resource management						
Affirmative action	1					
Gender issues			3			
Disability				4		
Staffing	1					
Planning		2			5	
Position classification				4		
Compensation						6
Fringe benefits					5	
Health insurance					5	
Promotion	1					
Dismissal		2	3			
Suspension						6
Labor-management relations	1				5	6
Collective bargaining					5	6
Unionization						6
Discipline			3			
Employee relations	1	2			5	6
Employee morale	1	2			5	6
Retirement programs					5	
Minority relations	1					
Relations with individual employees			3	4		
Dealing with fiscal constraints	1	2			5	6
Reductions in force		2				
4. General management						
Organization theory	1				5	6
Bureaucracy		2		4		
Managerial policymaking	1	2		4	5	
Ethics		2	3	4		
5. Governmental function						
Police	1					
Fire	1					6
Public works			3			
Parks and recreation				4		

Introduction

James M. Banovetz

Starting with the Good Government Movement promoted by the National Municipal League, the twentieth century has been a century of continuous reform for local government. Virtually every facet of local government—from the credentials of elective and appointive office holders, to the way in which governments are organized and operated, to the managerial methods used, and even to the emphasis on “doing more with less”—has been subjected to rigorous scrutiny, and the resulting reforms have been widely implemented.

The chief lesson learned about local government throughout the century’s reform effort can be summarized in the following words: *Good government requires good administration*. Good administration not only ensures that public services are delivered in a timely, competent manner, but also is *essential* if the community’s support for its local government is to be sustained and enhanced.

The importance of human resource management

Good administration is a composite of many elements: sound and informed judgment, forceful communication skills, effective people skills, familiarity with organizational theory and behavior, competence in managing fiscal resources, mastery of relevant technology, and competence in managing people—the human resources of the local government organization.

Of all of these elements, the most important is clearly the last: competence in managing people. It is an old but very accurate axiom of administrative and leadership theory that *the higher people rise in any organization, the more dependent they are on the contributions of others for their own successes*. In today’s complex, fast-paced world, individuals acting alone can accomplish comparatively little to change or improve their world, but individuals acting in concert with each other have the potential to accomplish whatever their imaginations can conjure.

The very essence and ultimate challenge of administration is the coordination of collective efforts toward a common goal. Management of staff—of available human resources—so as to achieve the maximum coordination of effort is thus the first and critical key to organizational as well as personal accomplishment. But even the most skillful coordination of a staff that is limited in competence or marginally motivated will produce only limited or marginal results. To produce excellent organizational results, the administrator must skillfully coordinate an excellent staff. The development and management of an excellent staff is thus the cornerstone of good administration. This is what human resource management is all about.

Human resource management in local government

Because it is so important, human resource management was one of the priority jobs assigned to the first local government administrators in the early twentieth century. Government reformers, already too familiar with the products of pa-

tronage and the spoils system, put personnel system reforms on a parity with financial management reforms as the most critical tasks required in the reformation of previously corrupt cities and counties.

The first professional local government managers thus had to develop “good government” applications of the approaches developed by industrial leaders for building successful corporate staffs. Sometimes they applied civil service systems to local government. More often, they designed “merit” systems to ensure flexibility, integrity, and excellence in recruitment and promotion; they borrowed and refined techniques of job description, position classification, performance evaluation, and compensation plans to promote fair and equitable treatment of staff; they pioneered training and other staff development programs to sustain and enhance the competencies of their employees; and they promoted a sense of professionalism in their staff, especially in departmental leadership positions. Their success in this endeavor became the cornerstone of council-manager government in the United States and set a new standard for local government management in the rest of the world.

Having fulfilled their charge to provide personnel systems based on merit and competence, local government managers delegated managerial responsibility for those systems to assistants with expertise in human resource management while they themselves addressed new local government priorities. In the middle of the twentieth century, local government managers went forward to deal with the emerging planning and community-building concerns of the postwar era, and more recently, they have focused their attention on streamlining (reinventing) community government to provide more services for fewer tax dollars. But even with these other concerns uppermost in their minds, good local government administrators have never taken their human resource programs for granted. They know that such programs have to continue producing excellent staffs if current and upcoming policy challenges are to be successfully managed.

And, indeed, the challenge of good human resource management continues to evolve. The last decades of the twentieth century have been a period of tumultuous changes, many of which have brought new and more complex problems for human resource managers to resolve.

Chief among these has been the growing diversification of the nation’s population. Human resource systems have had to be adapted to relate to, and involve, persons from a broader range of racial, ethnic, religious, and ideological backgrounds. The need to accommodate the changing role of women in society and in the workforce has added still more challenges. This increasing diversity has meant that the local government’s workforce has had to be trained to be sensitive to, and to interact effectively with, constituents holding an ever-widening range of attitudes and behaviors. It has also meant that the local government’s workforce has had to provide equality of government job opportunities for persons representing all aspects of this diversity.

The evolution in social values and public policies has also added new stresses on human resource management. In addition to accommodating diversity and gender equity, local governments have found themselves coping with increased demands for a wide range of employee fringe benefits, including such support systems as retirement benefits, child care services, non-job-related educational opportunities, longer vacations, and health care insurance. Greater sensitivity to the needs of persons with physical and mental limitations has also become essential.

Unionization has also made new demands on local government human resource systems. Following their midcentury success in representing employees in the private sector, labor unions made a major move to organize and represent workers in government agencies, including local governments. While such efforts have had varying success, formal or informal employee organizations have

evolved in many local governments, especially among police officers and fire-fighters. This trend has required local government managers to master still another skill—labor-management relations—and to deal with growing employee pressure for salary and workplace enhancements.

As these employee demands have increased, governments have also found themselves facing growing taxpayer resistance to higher tax bills. And such employee benefits have routinely come with added costs. In many Illinois communities, for example, state-mandated local government contributions to employee retirement plans have become one of the largest single expenses charged against property tax revenues.

On the positive side, constructive responses to these evolving pressures have helped local governments build better workforces. Enhanced fringe benefits, for example, have made local government jobs much more attractive when compared with private sector employment (which often does not provide equally generous support). This has enabled local governments to attract and retain a larger share of the “best and the brightest” entrants into the labor market.

Current human resource challenges

Such changes and their accompanying benefits have not come without difficulties. Public resistance to paying for enhanced human service programs has been a constant obstacle that has grown over time. The need to work with unions requires greater sensitivity to the needs and attitudes of workers and sometimes contributes to pressure for the privatization of public services. And just the growth in the population of cities and counties alone has required larger workforces—more police officers and public works crews, for example—which has intensified all these other human resource tasks facing the local government administrator.

New federal and state laws mandating changes in employment laws have needed to be interpreted and applied, and local applications have sometimes had to be defended in court. The threat of litigation has markedly increased as society as a whole has become more litigious. A better educated, more frequently organized, and typically more vocal workforce adds to this threat of litigation, but adds even more to the need for improved employer-employee communication, better managerial public relations, and more administrative skill in interpersonal relations.

For example, enlightened public management has recognized that the need to provide workplace parity to women as well as to men does not stop with equal access to employment opportunities. It requires changes in workplace rules and policies to accommodate employee family responsibilities, such as provisions that help both male and female employees meet child care and elder care obligation. It further requires education of employees and control over workplace behavior to change outmoded cultural attitudes and views toward women and to ensure that women will be treated with dignity and respect as fellow co-workers.

Accomplishing these changes, however, is far more difficult than it might seem. While the need for maternity leave policies seems obvious, does this need (right) also extend to new fathers and paternity leave? Granted that such leave should be provided, who should bear the cost of that leave—the new parents by loss of wages or the employer by paying for work not performed? Similarly, while it is equally obvious that employees should not be sexually harassed in the workplace, what constitutes sexual harassment? What kind of evidence is needed to prove that such harassment took place? How much responsibility must the employer bear for individual employee behavior, especially if the employer has made it clear that such behavior is not acceptable?

The answers to such questions have been highly elusive, to say the least. Even the courts have had trouble defining the answers, and no employer wants to see the organization's policies adjudicated in court. But issues such as these and a broad range of other matters—for example, affirmative action, disability, retirement, health care, continuing education, religious holidays, flexible working hours, and paid vacations—offer new and complex decision problems for the local government administrator.

The cases in this book

The selection of cases for this book reflects this new set of human resource issues. In part, such cases have been used because they illustrate an inevitable consequence of the strong emphasis on human rights that is so prevalent in today's world, and particularly in the United States. In part, too, such cases have been emphasized because these are the kinds of cases that local government administrators have most often submitted for inclusion in the book. Such cases apparently reflect most accurately the kinds of issues that occupy the time, energy, and creative talent of today's local government human resource administrators. They reflect the critical decisions being made today in "managing local government human resources."

Yet the more traditional human resource concerns—recruitment, promotion, job descriptions, compensation, fringe benefits, supervision, and performance evaluation—have not been forgotten. In part, of course, these old concerns are continuing concerns. But in part, too, these old concerns are simply asserting themselves in new ways, ways that are consistent with the fabric of the times. Traditional wage and salary issues, for example, now find their most difficult manifestations arising out of the cauldron of labor-management relations. The most challenging issues involving recruitment and promotion emerge from attempts to deal with affirmative action questions. The interplay of rights—individual rights and employee group rights—has become the context within which both traditional and contemporary human resource questions must be resolved.

It is thus within this context that this book presents a set of cases that best typifies the current complexity of managing local government human resources.

Introduction to part one: Staffing

If staffing—building a staff—is the most important administrative task, the components of that task are surely at the top of the list of administrative responsibilities. Virtually every personnel management action is ultimately aimed at building the staff, either by adding new persons to it or by making adjustments in staff responsibilities.

Some staffing tasks, however, are particularly critical. These are the tasks that change the human composition of the staff. They are recruitment, or the search for new persons to add to the staff; promotion, or the movement of existing staff upward in terms of job challenges and responsibilities; the establishment of retirement policies, which affects the rate at which longtime staff members move off the active staff; and dismissal or discharge of staff.

Because these tasks are so critical, two of them are explored in the first two cases in this book. The first involves promotion, which, in that it involves selecting new people to do jobs within the organization, shares many characteristics with recruitment. The second involves the discharge of staff from the organization. Sometimes such removal is related to employee performance; at other times, people are discharged for other reasons, such as a reduction in force—the “RIF” process so common in the late 1980s and early 1990s as organizations reduced their staff size to achieve economies in size and operating costs. The last key staffing element, the establishment of retirement policies, is covered, if somewhat indirectly, in case 5.

Central to all personnel policies, but especially to those involving staffing, are a collection of values and policies that have customarily been bundled together under the label “affirmative action.” Despite the somewhat negative connotation that that label has had for many people, the values underscoring affirmative action are essential both to the health and viability of the nation’s democratic system and to the strength of its organizations. The essence of affirmative action is to sustain an organizational climate that treats all people—employees as well as clients—with the same high regard and provides the same opportunities to all who might aspire to a participative role in the organization. The implementation of affirmative action values not only enhances the organization’s relationship to its external environment, but also strengthens the organization internally by opening it up to a broader cross-section of the ideas, perspectives, values, and insights of the greater society served by the organization.

In addition to these operational realities, there is also the close parallel between the emphasis on human dignity, which is a fundamental part of the United States’ national heritage as well as good organization theory, and the basic concepts and values lying at the root of affirmative action. Against this backdrop, it is easy to see why affirmative action is particularly essential in all local government organizations.

Thus, to emphasize this fundamental importance and to underscore the particular relevancy of affirmative action to all staffing activities, the first case in this book also deals explicitly with the application of affirmative action values in actual practice.

1

Recruitment, promotion, and affirmative action

Editor's introduction

All organizations develop and constantly work to refine and improve their policies and systems for what are, ultimately, the most important personnel decisions they make: who to hire (recruitment) and who to advance to greater authority and responsibility (promotion). In fact, these two tasks are doubly important because they affect both the quality of people who carry out the tasks for which the organization exists and the morale, or working productivity and efficiency, of those people.

This case describes one local government's attempt to improve its policies and procedures governing promotion in its police and fire departments. These are the most politically sensitive service departments in most cities and counties, and their staffing patterns go a long way toward defining the relationship between local governments and their residents. Recruitment and promotion are thus critical to effective public safety operations.

They become even more critical when the demographic profile of the local government's residents is changing rapidly. Experience has long proven, often to the dismay of the affected local governments, that public safety services are most likely to elicit the level of resident support essential to the successful fulfillment of their mission if their staffs mirror the demographic characteristics of those residents.

Even recognizing the importance of this demographic reality, however, does not mean that staffing change to accomplish such mirroring can be brought about easily or quickly—maybe not even over a period of decades. Such changes often must wait for personnel turnover to create available positions into which new people can be recruited; such changes can be highly charged with political sensitivity for the groups affected; and continuously changing interpretations of evolving laws governing public sector employment can invalidate changes in personnel procedures almost as fast as the procedures can be developed. All these factors play an important role in this case.

Important in this case, too, is the role played by the forces of affirmative action. As noted in the introduction to part one of this book, affirmative action is a philosophically valued and operationally essential element in all personnel activities, especially those related to staffing. In studying this case, readers should note that, even when local government officials try to achieve affirmative action goals, they may not succeed in either accomplishing their goals or even winning the support of those whom their efforts are intended to help.

As is too often the case in public management, doing the right thing even for the right reasons offers no guarantee of anything but tough decisions and still more difficulties ahead.

Case 1

Public safety promotional systems and minority officers

Kevin C. McGonegal and Jeffrey A. Raffel

Background

In the early 1970s, the city of Wilton was faced with a wide disparity in racial composition between its police and fire departments and the city population as a whole. Like many urban centers in the 1950s and 1960s, Wilton's population had shrunk from 110,000 in 1950 to 80,000 in 1970, owing largely to the explosive growth of the suburbs. The change in the city's racial composition was affected by the white flight to the suburbs and the movement of minorities from nearby states and Puerto Rico into the city. In the ten years from 1960 to 1970, the minority population in Wilton had grown from 26 to 44 percent, and the trend had continued.

Despite these changes in population, however, the hiring practices for public safety jobs continued to operate in their traditional pattern, often with family members following one another into careers as police officers and firefighters. This pattern, coupled with the historically low turnover rates in these types of positions, resulted in a very limited number of job opportunities becoming available each year. This meant there was little chance for the growing number of minority applicants to secure employment as public safety officers or for minority groups to gain adequate representation in the police and fire departments. This lack of representation was highlighted during racial unrest in the city during the late 1960s, and by the 1970s, city officials had decided to make significant changes in hiring patterns.

By this time, the city's tax base was shrinking along with the population base, and the police and fire departments were scaling back their staffing in response to fiscal realities and reduced service needs. Since it was impossible to change the makeup of the two departments either by replacing current officers, especially given the recent unionization of the departments, or by simply hiring additional officers, which would be financially prohibitive, the mayor and the police and fire chiefs adopted an informal policy of targeting 50 percent of all future recruit positions for minority candidates.

The decade of the 1970s was a period of high unemployment in the state, so there was no shortage of highly qualified white applicants, many of whom wanted to follow the family tradition of public safety careers. However, African Americans and Hispanics in general had no such family tradition motivating them to pursue this type of career. Moreover, many minorities viewed police and fire jobs as undesirable roles for minority persons. Some viewed police officers as symbols of white authority in black neighborhoods. Also, better-educated African Americans were beginning to reap the benefits of affirmative action programs and thus had expanding opportunities for better-paying careers.

The combination of many such factors provided a highly competitive and selective atmosphere for white applicants, with far less competition among minorities. Often there would be three to four times as many white as minority applicants for recruit positions. Not surprisingly, this produced recruit classes with white officers who were often better educated and potentially better qualified than the minority officers.

This hiring pattern continued for a period of years, ultimately affecting the promotional systems of the two departments. In both departments, union contracts restricted eligibility for promotional tests to those with a minimum of

four years of service, after which police officers could test every year and firefighters every other year to be placed on promotional lists. Promotional tests would change from year to year, but they usually consisted of several sections: typically, a written test on law and procedures, a supervisor's rating, an oral exam in front of a panel of senior officers, and the chief's interview. It was vitally important for police officers to be promoted to sergeant and firefighters to lieutenant if they were to advance up through the ranks. Therefore, this first step on the promotional ladder was most critical.

Challenges to the fire department's promotional system

The fire department's promotional system finally began to be challenged in the courts when several white firefighters and the union brought a lawsuit alleging that the subjective evaluation by the chief and commissioner of public safety offset the results of the written exams. In fact, a former fire chief was found personally liable for altering test scores to favor friends.

The settlement of this first lawsuit came when an agreement between the city of Wilton and the firefighter plaintiffs provided that the next fire department promotion process, soon to be started, would exclude all subjective ratings by supervisors. In its place were a written exam (50 percent), an oral exam (40 percent), and experience points (10 percent) based on length of service. The results were combined in a top-down rank ordering so that each vacancy was filled by the highest scorer remaining on the list.

At that time, the fire department consisted of 224 firefighters, 28 of whom were minority. However, nine of those twenty-eight had joined the force only in the previous year. Of the sixty-five white and eight minority candidates then qualifying for promotion, the minority applicant with the highest score ranked eighteenth. Since only eleven promotions were made from that list, no minorities were promoted.

The city of Wilton was unhappy with the racial disparity of these results so it employed a local university consultant to develop a new promotional system. This system had a pass/fail written exam that qualified candidates for the balance of the exam, which consisted of an oral exam (60 percent), experience points (10 percent), and an administrative task analysis (ATA) (30 percent) designed to measure a candidate's ability to handle administrative paperwork.

Of the sixty-one white and eleven minority candidates qualifying for promotion under this system when it was first used, four minorities finished in the top twenty, with the highest minority scorer ranking seventh. A total of eight whites and one minority were promoted from that list, bringing the officer ranks to forty-nine whites and two minorities.

Litigation

A group of African-American firefighters, calling themselves the "Gallant Blazers," filed a lawsuit against the city of Wilton and the firefighters union, alleging that these promotional procedures were racially discriminatory. In particular, they claimed that the assignments of firefighters to administrative positions such as battalion chief's aides and the fire marshal's office were made, in part, on the basis of race. They further alleged that the experience gained in those positions contributed significantly to the assignees' performance on the ATA portion of the promotional tests. To advance their case, the African-American firefighters claimed that the Wilton labor force was 48 percent minority and the fire department was only 15 percent minority, a statistic that, they alleged, proved discriminatory treatment.

A U.S. district court judge ruled in favor of the city in this case. The judge rejected the plaintiffs' (African-American firefighters') argument of discrimi-

natory treatment based solely on workforce comparisons since the overall population of the Wilton workforce did not bear a sufficiently direct relationship to the applicant pool and to positions for promotion. The judge also agreed with trial testimony arguing that the statistical universe for the promotional candidates was simply too small to provide valid conclusions based solely on statistical analysis. While he did find that the selection process for some administrative positions was “tainted with discrimination,” he did not believe that the plaintiffs had proved a significant statistical relationship between the test scores and the administrative experience. In other words, those with the extra experience in administrative positions did not necessarily do better on the promotional exam. Since the administrative jobs were not part of the promotional system, he ruled that they were irrelevant as a matter of law.

The district court judge based his findings, in part, on a 1971 Supreme Court decision, *Griggs v. Duke Power Company* (401 U.S. 424 [1971]), which originated the theory of “disparate impact” regarding promotional systems. “Disparate impact” was defined as the effect created any time minorities as a group were selected at a rate of less than 80 percent of the rate at which white applicants were selected (e.g., if 60 percent of white applicants were selected but fewer than 48 percent of African-American applicants were selected). This decision expanded the previous standard of discriminatory treatment beyond that proven to result from a discriminatory motive to focus on the “outcome,” regardless of how benign the motive underlying the treatment of minorities might have been. A three-part analysis was established in these cases, the first part of which was to determine whether a disparate impact on minorities existed. If so, the burden of proof shifted to the defendants to show that the promotional system used was job related. If the defendants proved this, the plaintiffs then needed to prove that the system was a pretext for discrimination and that an alternate, nondiscriminatory system was available.

The court of appeals’ ruling

A year later, in *Wilmore v. City of Wilmington* (699 F.2d 667 [3rd Cir 1983]), the U.S. Court of Appeals reversed the district court’s ruling in the firefighters’ case. The court stated:

The city’s and fire department’s general policy of racially equal employment opportunities was breached by fire department officers who excluded minority firefighters from job opportunities that could have contributed significantly to their professional development. We believe that the exclusion of minority firefighters from administrative jobs because of their race with its consequent detrimental effect on their promotional test scores is the kind of artificial, arbitrary and unnecessary employer-created barriers to professional development the Supreme Court found to be prohibited.

This decision was based in part on a 1982 Supreme Court ruling, *Connecticut v. Teal* (457 U.S. 440 [1982]), that focused on a wider range of opportunities than just the tests themselves to allow minorities to compete for promotions and included the “artificial, arbitrary” standard. The appeals court stated that recent fire department promotional tests had not been validated as job related and thus were to be measured against the “disparate impact” standard.

Several months after this decision was handed down, the city and the African-American firefighters reached a settlement agreement or “consent decree.” The city agreed that all future promotional exams and procedures would afford minorities equal opportunity and that the tests would not result in a disparate impact on minorities. In addition, a small number of extra African-American lieutenant positions were created as compensation for the minorities affected by the last two, disputed rounds of promotional tests.

The case

The fire department's most recent promotional system involved two initial components: a problem analysis section covering correct procedures in firefighting situations and an ATA section. Those classified as "well qualified" as a result of these two components continued on to the chief's interview. In the following year's promotional tests, the board of examiners (fire department senior officers with some outside assistance), after seeing the scores from these two sections, rejected a top-down ranking of the test scores because such a procedure would cause a disparate impact on minorities in violation of the consent decree. Instead, they used a "threshold" minimum score, grouping all those equally who met the minimum score.

Charges of reverse discrimination in the fire department

A group of white firefighters and the firefighters union then sued the city of Wilton over this promotional policy, alleging reverse discrimination because adjustments were made in the test score rankings to eliminate racial impact, in line with the consent decree. The plaintiffs further challenged the procedures used at the chief's interview, when, for those in the well-qualified group, threshold scoring was again used, grouping promotional candidates in a "first-eligible, second-eligible, or third-eligible category." In effect, the plaintiffs said that the city should not have changed the test scoring system in midstream, even though the results of the original top-down scoring system were shown to have a disparate impact on minority firefighters. The resultant effect on white firefighters was more than academic. One firefighter saw his ranking drop from seventh to forty-first.

The union and white firefighters' challenge to that most recent promotional process was strengthened when the federal Equal Employment Opportunity Commission reviewed the plaintiffs' charges and granted them the right to sue.

The police department's promotional problems

Just after the firefighters union filed the reverse discrimination lawsuit, Wilton's police chief, Dan Markson, retired. Markson's timing proved to be unfortunate because it occurred when the police department was midway through the administration of its own promotional exam. The first part of the police promotional system was a pass/fail test, and to avoid a disparate impact on minorities, the passing grade had been adjusted down to the point where all but one applicant earned a passing grade. All those who passed then moved forward to the second part of the process, the chief's interview. Those interviews were in process when Chief Markson left office. And since the police department's promotional system relied heavily upon the chief's interview to determine the final rankings of the candidates, Markson's departure caused a major disruption in the process.

Rather than have the chief's interview conducted by two different chiefs, city officials approached the Fraternal Order of Police (FOP) about postponing the promotional exam until such time as a completely job-related test could be developed, which would meet the legal test set forth in the 1971 U.S. Supreme Court decision in *Griggs*. The FOP agreed, with the understanding that any promotions from the revised system would be retroactive to compensate the beneficiaries for delayed promotions.

The police promotional system had its history of problems also, although not to the extent of the legal challenges to the fire department system. Ten years earlier, charges had been made that the promotional system was too secretive and too dependent on interview points awarded by the chief and the

director of public safety. A new system was then instituted using supervisory ratings and the chief's interview, along with a written test. The results were mixed, and most parties were unhappy with the process. In addition, city officials had no confidence in their ability to defend the system as job related should a disparate impact on minorities result. An interim system was in use in the promotional examinations being administered when Chief Markson retired.

After Markson retired and the promotional process was suspended, a new consulting firm was hired. This firm had specific background in creating job-related tests in several large eastern and midwestern cities to counter the same kind of problems Wilton faced. An in-depth evaluation was made of sergeant and lieutenant functions, and a test was developed to measure the ability of officers to handle the requirements of the positions. Very little latitude was given to any senior officers in judging a candidate's potential. The test was in four sections, with the first three sections encompassing an open-book exam; a closed-book exam based on a textbook chosen by the consultants; and an oral, problem-solving component. After the first three sections of the test were scored, the top third of the sergeant candidates and the top half of the lieutenant candidates moved forward to an interview with the chief and the public safety director.

The results of this test were particularly devastating for minority officers. Not one minority officer scored high enough on the first three sections to move on to the interview phase of the exam. City officials were lambasted for promoting racism on the police force, and minority officers appealed to the state human relations commission. The test was attacked by African-American leaders, including ministers and politicians, as well as by an African-American consultant, all of whom claimed that it was too "paper and pencil" oriented and did not take into consideration abilities acquired "on the street."

The last straw

Just as these most recent police test results became known, the U.S. district court handed down its opinion on the white firefighters' lawsuit, charging reverse discrimination in that department's promotional examination process. The judge ruled in favor of the white firefighters and the union, disagreeing with the city's interpretation of their obligations under the earlier consent decree. In his opinion, the judge concluded that the city should not have unilaterally altered the test scoring system to avoid a disparate impact on minorities. As this action was not mandated by the consent decree, it was therefore considered to constitute voluntary, race-conscious affirmative action. As such, it was to be measured against a 1979 Supreme Court decision, which stated that such actions must not "unnecessarily trammel the interests of non-minorities" (*United Steelworkers of America v. Weber* [443 U.S. 193 (1979)]). The judge felt that the city's action did just that, so the city was ordered not to make any promotions from its most recent list—the list that was challenged in the lawsuit.

The decision problem

The Wilton newspaper published two articles that dramatized the extremely sensitive and difficult situation confronting the city regarding the promotional policies in its public safety departments. On page one, the first article reported that no minority police officers had made the cut to advance to the final phase of testing for sergeant and lieutenant positions. On an inside page of the same edition, the second article reported that a U.S. district court judge had ruled that city officials had acted incorrectly when they revised fire department test

procedures during a testing cycle with the hope of increasing the number of minority firefighters eligible for promotion.

Burdened with the products of past policies, which had held down the number of minority police officers and firefighters who had attained supervisory and command positions in their departments, the city was now under legal and political pressure to rectify the situation. Yet the city also was still plagued by controversy over the issues surrounding fair promotional systems for police officers and firefighters. These issues had developed over many years, and substantial differences of opinion about them were deeply rooted in the personnel of both departments.

The city of Wilton thus found itself in a “no-win” situation. It had tried for nearly a decade to reverse the consequences of its racially discriminatory staffing patterns and public safety promotional systems—systems that had developed in an era of insensitivity to minority rights and when its minority population was a much smaller percentage of its total population. But in the ten years that had passed, despite increasingly more substantial efforts to remedy the inequities to make it easier for minorities to advance, too few minorities were qualifying for promotion, and now, with the problem still unresolved, the courts were finding the city guilty of reverse discrimination against nonminorities for the efforts it had made. It seemed to city officials that there was no way to avoid discriminating against someone. Nevertheless, the task of finding a solution to this quandary fell directly into the lap of the current public safety director, Alex Short.

At this point, Alex Short was in an extremely difficult situation. First, he had to analyze several options available to city government regarding the police test, examining the ramifications of each option and anticipating potential reactions from various sectors of the public. His options, among others, included (1) changing the cutoff scores for the tests to allow some minorities to complete the chief’s interview phase, (2) canceling the test and starting the process all over again, or (3) continuing on with the test with no minorities in the running.

All three options had obvious disadvantages. The first would likely result in another reverse discrimination lawsuit against the city; the second would deprive the city of needed police promotions; and the third would draw righteous public rage from the city’s minority groups and probably lawsuits from minority officers.

The director also had to make recommendations to the mayor’s office about how to avoid this situation on the next round of police promotional tests, scheduled for the following year. Finally, he had to consider what long-term policies the city should pursue regarding hiring and promotions to alleviate this problem in the coming years.

The decision facing Short could not be made in a political vacuum. The mayor was newly elected, having survived a four-way primary eighteen months earlier to win just a 37 percent plurality. For the first time in Wilton’s history, an African American had made a serious run for the mayor’s seat, and he had won with virtually no minority support, instead relying heavily on the white yuppie vote and some older white ethnic groups’ support.

The political situation on the city council was also a concern for Short. The thirteen-member council was now composed of a majority of African-American and Hispanic members, including an African-American council president. This new political clout for minorities in Wilton would weigh heavily on the thinking of the mayor as he considered the options Short presented. Whatever course of action was adopted had to address the needs of the rank-and-file officers, both black and white; the staffing needs of the police department; the rigors of a potential legal challenge; and the political realities of racial politics.

On a personal level, Public Safety Director Short was a minority attorney who had been appointed by a white mayor with little minority political support.

As someone active in his church and community, Short realized that his life in Wilton among his friends and associates would inevitably be affected, for better or worse, by whatever decision he made.

Discussion questions

1. What were the problems in developing promotional procedures to withstand court challenges from white and African-American public safety personnel?
2. What should be the city's goals and objectives for the police and fire promotional systems (e.g., avoiding a lawsuit, avoiding political criticism, filling positions with the best applicants)?
3. What are the advantages and disadvantages of each of the alternatives confronting Public Safety Director Short? In your answer, consider this question from the perspectives of (a) the city, (b) individual police officers, (c) the firefighters' promotional system, (d) the mayor, and (e) Alex Short personally.
4. In making this kind of a decision, a public official could group the relevant considerations into the following categories: (a) the public service needs of the community; (b) the ethical need to provide equitable and humane treatment for the affected individuals, in this case the police officers; (c) political considerations, including both partisan and interest group preferences and the obligation to abide by the democratic tenets requiring popular participation, majority rule, and respect for minority rights; and (d) the personal interests and needs of those who must make the decision. How should all of these considerations be balanced against each other?
5. What should the public safety director recommend to the mayor to deal with the immediate and long-term problems of the public safety promotional systems?

2

Reductions in force

Editor's introduction

People leave local government organizations for a variety of reasons: they move to other organizations, they retire, they are fired for unsatisfactory performance, or they are “RIFed”—that is, discharged as part of an organization’s effort to cut back the size of its staff. Regardless, the way such departures are handled can severely affect organizational performance.

Sometimes the departures are happy affairs: retirements that have not been prompted or accelerated by forces within the organization are happy times of memories, rewards for contributions made, and eager anticipation for the departing colleague’s future. Resignations to accept better positions elsewhere provoke similar responses. These separations are times to build esprit de corps within the workforce and bring the staff closer together.

However, departures occasioned by forces within the organization rather than initiated by the affected employees are times of potential organizational crisis. Such “provoked” terminations as forced retirements, terminations for poor performance, and reductions in force (RIFs) inevitably make even nonaffected employees insecure and apprehensive. At such times, management has to move very carefully to engage in “damage control,” even while making the personnel changes needed to improve the organization’s overall staffing pattern.

Local governments are more sensitive to such terminations than perhaps any other type of organization. Employees affected by such changes often live within the community, enjoy a network of friends among community residents (and voters), and are likely to maintain some level of contact with other employees for an indefinite period of time after the termination. Thus the effects linger, both within the organization and among the residents of the community. The constant presence of the press performing its “watchdog” function can further exacerbate termination situations.

This case deals with the problem of employee dismissals in a local government because of the need to achieve a RIF. These are the hardest dismissals if only because nobody benefits from them: terminated employees are stressed by the need to find other employment and adapt to related lifestyle changes; supervisors are stressed by the need to maintain output with less staff; and organizational leaders are stressed by the need to make hard choices and endure both the inevitable criticism from those dismissed and the lowered morale among those retained.

As this case demonstrates, such RIFs pose major managerial challenges, not the least of which is the difficulty for all the decision makers involved—the elected council, the manager, and the department heads—of having to decide what services get cut and which employees are terminated. In addition to creating negative political pressures, those decisions, if poorly made or implemented, can create havoc, both in the organization and especially in the lives of those who will be terminated. And even good and well-implemented actions have negative consequences. Giving employees appropriate and full advance

warning of the pending cuts, for example, raises the apprehension of every staff member and poses severe morale problems.

Yet someone has to make the hard decisions, and someone has to design and implement needed damage control policies. Not surprisingly, such circumstances demand the very best in human resources management.

Case 2 **Staff reduction with a human touch**

Martin Vanacour and N. Joseph Cayer

Background

The city of Daleglen is located in one of the fastest-growing states in the United States and in a metropolitan area that, until recently, was always in the top ten for employment opportunity and a healthy economy. The third largest city in a metropolitan area of approximately two million people, Daleglen has a population of about 150,000 people residing within its 51-square-mile area. The median age of this population is 29.2 years. Almost 60 percent of the adult population have some college education while 21 percent have at least a four-year college degree.

The major private sector employers in the community are in aircraft aviation components, manufacture, retail, health care, electronic components, cable television connectors, and automobile sales and service. Daleglen also has 1,250 full-time municipal employees and several hundred part-time summer helpers working within the full-service city's twenty-four departments and administrative units. All municipal employees work under the city's merit system and human resource policies.

Organized under a home-rule city charter, Daleglen is governed by a seven-member city council elected from districts and a mayor elected at-large. Every two years, half the city council is up for election. The city maintains the traditional council-manager form of government as spelled out in the National Civic League's model city charter.

From 1980 to 1990, Daleglen was the fourteenth fastest-growing city in the entire country. Calculated before the slowdown in growth, its population was expected to exceed 225,000 people by the turn of the century. But in 1996, Daleglen and the urban area faced its first economic downturn, with the inevitable reduction in the growth of its revenue base. Until that time, the city had been issuing approximately 200 to 300 new home permits each month. Now, however, home construction was down to 30 to 40 new home permits per month.

Although much of the slowdown was attributed to a statewide real estate slump, for Daleglen and its surrounding urban region, "the party" seemed to be over. The city could no longer depend on growth-related revenues. Yet many growth-related improvements still needed to be made. As a result, Daleglen experienced extreme budget shortfalls for the first time since the depression era. The city management team—the city manager, assistant city manager, four deputy city managers, and assistant to the city manager—thus had to face up to several increasingly critical human resource decisions to balance the budget.

The case

During the budget preparations for the July 97–June 98 fiscal year, the management team had studied numerous cutback techniques short of staff reduc-

tions. The city adjusted work schedules and work assignments; reduced hours of operation; encouraged employees to be more productive; cut back in most areas of discretionary spending; reduced the maintenance of city facilities, parks, and streets; and automated to the fullest extent possible. For the first time in the city's history, the city council adopted a budget that was several million dollars less than it was the year before. The management team had been able to find a way out of the fiscal dilemma and survive the first year of cutback management.

Realizing that the budget estimates for the year to come would look even worse, however, City Manager Mark Van asked Budget Director Steve Scott and Deputy City Manager for Administrative Services Martin Kent to undertake the unenviable task of preparing the management team and the city council for the real possibility of staff reductions. The day after the current fiscal year's budget was adopted, Van called his team together to get a head start on the following fiscal year's budget.

At its initial meeting, Van's management team accepted that it would have to lead the city through a period of staff reduction, or downsizing. Van's announced goal was twofold: (1) to ensure that throughout the process, employees were treated in the most humane manner possible; and (2) to explain and defend the RIF alternatives to the mayor and city council, to "watchdog" groups such as the chamber of commerce, and to the media. Since this was the first time in the 100-year history of Daleglen that layoffs were being considered, the local newspapers quickly made this downsizing process an almost weekly headline throughout the budget preparations.

The objectives of the management team were to balance the budget, maintain customer service at the highest levels possible, treat all employees fairly and in an open environment, minimize organizational disruption, and convince the city council that the problem was real and that no "magic rabbit" could once again be pulled out of the hat. This difficult process was driven by many decisions that ultimately had to be made for the very first time. Faced with the necessity of making personnel cuts of approximately \$1.6 million from a total personnel budget of \$49 million, the management team itself took responsibility for balancing the budget by making the decisions and establishing the procedures necessary to reduce services and especially the workforce providing those services. But first it had to present the problem to the council, gain its understanding of the problem, and seek its policy guidance.

The council

On the basis of the budget office's early projections for the 1998/1999 fiscal year's revenues and expenditures, City Manager Van advised the city council in October that it would be impossible to balance the budget without reducing approximately forty positions. It was noted that attrition alone would no longer be sufficient and that the council would need to give policy direction on what service levels could be eliminated or reduced. The management team would then develop a layoff procedure that was as humane as possible and legally defensible in court.

Holding several public workshop sessions, the city council set service priorities. All areas were considered for reductions with the exception of police and fire emergency services. The council also set four rigid parameters, or assumptions, for balancing the budget:

1. There would be no tax increase.
2. There would be absolutely no staff additions anywhere.

3. There would be no pay increases if it meant laying off employees.
4. The first three assumptions assumed no change in state-shared revenue formulas.

Since the city had no precedents to follow and neither the press nor the city's employees had any past history upon which to base their expectations, the publicity and rumors about who would have to leave were rampant and relentless. The city council understandably became very concerned about how this situation would be perceived and what the political ramifications might be. It thus directed the management team to develop the needed, complicated layoff policies and procedures quickly. For its part, the management team was determined to develop and carry out the process with a truly humane approach. Van reminded the members of his team never to forget the saying "There, but for the Grace of God, go I."

Layoff policies

City policy for implementing layoffs specified that employees with the lowest seniority or, among those with equal seniority, employees with the lowest performance rating would be laid off first. City policy also permitted "bumping" privileges, under which an affected employee who had held another position with the city could return to the most recently held position if he or she had performed satisfactorily in that position. Such bumping, of course, would displace someone else from the position to which the employee "bumped back."

It was also decided early that the city would provide a liberal severance package, pay health insurance for several extra months, contract with an out-placement company to assist laid-off employees, allow laid-off employees to spend their last several weeks on the payroll to look for work instead of staying on the job if they so desired, and treat those chosen for layoffs as valued people who had done nothing wrong but were caught in a seniority system during difficult economic times. Employees who chose to stay until their time ran out would be given free access to their offices and all city equipment and facilities. Security concerns would be set aside; the city would treat all employees as good, loyal employees. Departments would be permitted to sponsor farewell parties for the employees (and many ultimately did so).

The employees

The management team spent several full days discussing how to explain the cutback program to the employees and how to treat employees in the fairest manner possible, just as each one of the team members would have liked to be treated. The team also constantly reinforced the notion that how laid-off workers are treated has a powerful effect on how well the "survivors" perform and trust you in the future.

On January 10, six months before the final decisions were made, City Manager Van notified all 1,250 city employees by letter (see Exhibit 1) about the economic situation and the possibility of layoffs. Even though this information would cause turmoil for a long period of time, it was felt that everyone had to understand, firsthand, what was about to happen. At each milestone in the process, additional letters went out to every employee. As the process progressed and groups of employees were targeted, every employee who possibly could be affected was notified in person by both a deputy city manager and a department head, each of whom had received extensive training by human resources management professionals on what to say and how to deal with the employee's reaction.

Exhibit 1 City of Daleglen

January 10, 1998

Dear Fellow Employee:

It seems that each day we are reading or hearing about the effects that the state and national economic downturns have had on businesses and cities. In this letter, I intend to lay out how the economy is affecting the city of Daleglen and our efforts to accomplish the goals of the city council and our citizens.

During the past three years, we have all been "doing more with less," working smarter, and making every effort to maintain the quality of our services for our citizens. We have reduced budgets and eliminated many jobs by not filling vacant positions.

While the city council and I have made a good faith commitment to make those solutions work, the duration of the economic downturn is making those types of solutions alone unworkable for the future.

Taking into account the current services that we provide and based on the most accurate budget information currently available, we will face a \$1.6 million shortfall in revenue during the 1998/99 fiscal year. This is based on four assumptions: (1) nonsalary expenses stay the same; (2) no new services are added; (3) no increases in revenue are available; and (4) state-shared revenue is not reduced. Frankly, we are not going to balance the budget without making tough choices that will have serious outcomes.

I have shared this information with your department heads and will be presenting difficult options to the city council. What are these difficult options? Revenue can be raised through increases in taxes and fees, expenses can be reduced by cutting programs and services, or a combination of both can be considered.

During these past three years of tough economic times, I have been committed to doing everything possible to avoid eliminating jobs through layoffs. Unfortunately, this year, layoffs are one of the tough choices that we are seriously considering. If this choice is made, it will be done after intensive discussion with the management team and with the city council's guidance.

I know that this is disturbing news, so let me attempt to answer some questions that may come to your mind:

- If we have layoffs, how many will there be? That depends on many variables, but the estimate is between fifteen and forty.
- Will there be salary increases next year? I will not recommend laying off employees to pay salary increases.
- If it is necessary, what programs or services will be reduced? No decisions have been made about that yet.
- Is there a layoff policy? Yes. The policy was drafted in 1996 and has been formally reviewed twice by the management team to ensure that we achieve service and operational effectiveness while being fair to employees. The policy will be distributed next week and made available in all departments.
- If we have layoffs, when will they happen? My best guess is March 1998. All employees will be notified immediately when decisions have been made.
- Will there be a severance package for laid-off employees? Severance package recommendations will be made to the city council for their approval.
- If I have questions, whom should I ask? Ask your department head. If

you still have questions, he or she will get an answer for you as soon as possible or refer you to the right person.

I am committed to sharing factual information with all of you as quickly as possible. With the media attending all council meetings, stories will soon be appearing about our budget problems. My commitment to you is to keep you fully informed and up-to-date as the budget picture develops. In return, I ask that you rely on official and factual information. If you have questions or hear rumors, please ask your department head to get you the facts.

Mark Van
City Manager

The decision problem

As might be expected, the publicity and widespread concern with the layoff process had its effect on the city council, which faced great difficulties recommending specific service cuts or staff reductions while sitting in public meetings. (In one-on-one private conversations with the city manager, however, various council members did express some strong opinions on the matter.) It became clear to Van that the council probably could not recommend specific areas for reduction and that, indeed, it preferred the management staff to take the initiative in the matter.

Van next turned to the management team, but even members of the team were at first reluctant to recommend cuts or even help develop priorities for cuts that would affect areas for which they were responsible. In the end, the city manager himself took responsibility for the final decisions on the service cuts that had to be made. Since his recommendations pleased no one on the management team, Van felt that they were probably fair.

Next came the final decisions about which employees were to be laid off. In this matter, the legal authority clearly was vested in the city manager. The Daleglenn city charter provides that the city manager:

shall have the power and shall be required to: . . . when deemed necessary for the good of the service, lay-off, suspend, transfer . . . all department heads, officers, and employees of the city, subject to such merit system regulations as the council may adopt (sec. 3(3)).

The city's administrative code and its human resource policies also supported the city manager's authority to implement layoffs and to specify criteria and procedures for doing so.

But while Van had the authority to make these decisions, he needed specific recommendations from his department heads, and he felt that those recommendations ultimately would be most defensible if they were based on a consistent set of guidelines for all the departments. Thus, he directed Martin Kent, his deputy city manager for administrative services, to convene a meeting of the management team to develop a set of proposals that would

1. Define exactly what the RIF policy should mean in this situation and how it would be applied. Specifically, this meant that
 - a. Rules were needed to define how seniority should be determined
 - b. Priority for temporary positions needed to be established
 - c. Definitions were needed of who could "bump" and under what work history
 - d. An appeals process might be needed and, if so, the circumstances requiring it would have to be stipulated.
2. Address early retirement. Should the city offer an early retirement program?

3. Formulate a recommendation regarding a voluntary separation plan. Should employees be offered an incentive package for voluntary separation, and if so, what should it provide?

Van further directed Kent to have the management team keep in mind the following critical considerations when addressing these questions and making its recommendations:

1. Would an early retirement program cause the city to lose some of the most productive employees?
2. Would separation incentives result in a loss of some of the city's most productive employees?
3. What effect would the layoff process have on women and minorities?
4. What rights did full-time, temporary employees have?
5. What about leaks and unexpected outcomes? How should they be handled?
6. What date should be set to make the program effective? A time schedule was needed that would assist employees and hold down costs where prudent.
7. Who should be involved in the RIF?
8. How should individual employees scheduled to be laid off be notified of their termination?

Once the team had developed its set of recommendations, Van said, he would meet with it and finalize a plan for the RIF that would be taken to the council. Knowing that the members of the management team were busy people, Kent decided that he should come to the meeting himself with some ideas and recommendations for the team to use as a starting point in its deliberations. What should he propose?

Discussion questions

1. What are the advantages and disadvantages of an open decision-making process in which pertinent information is made available to all employees and the media?
2. How can management determine the amount of savings created by any given strategy?
3. What are the pros and cons of alternative strategies, such as
 - a. Voluntary separation with a generous severance package
 - b. Early retirement incentives
 - c. Elimination of positions based on priorities
 - d. Allowing bumping privileges?
4. How should management prepare for dealing with adverse publicity and employee anxiety?
5. What factors need to be considered in the timing of the process?

Part two:

**Relations with
individual employees**

Introduction to part two: Relations with individual employees

Once employees are on the job, the central task of human resources management is to provide the kind of work environment that will motivate them to put forth their best efforts. The literature on human resources management is replete with studies, findings, and suggestions on how to create a constructive work environment and to elicit superior performance from employees at all levels.

A common perception holds that a productive work environment is produced through interaction between management and the employees as a group. Such interaction is an essential part of the process. But in this day of emphasis on individualism, the way in which *individual* employees are treated, or perceive themselves as being treated, is also a critical part of human resources management.

In part, it is the task of management at the highest levels to create an environment in which worker productivity is maximized and individual employees feel valued, appreciated, and respected. In part, this is also a major job of supervisors at all levels. Every supervisor sets the “tone” or creates the “human environment” in which work takes place. The tone is established not only through work and employment policies but also through the example set by the supervisor. In large part, too, the tone is established by the way in which supervisors deal with employees on a one-to-one basis.

At the heart of all these supervisory behaviors is the need to exercise a supervisor’s golden rule: *treat all your staff the way you yourself want to be treated*. An important corollary to this rule is to treat each individual employee in the manner in which *that individual* wishes to be treated—at least insofar as such treatment is possible, given the need for some level of consistency in the way *all* employees are treated.

This section of the casebook focuses on the way in which individual employees are, and should be, treated. The first case in this part describes the importance of maintaining a work environment that affords both respect and a feeling of comfort and well-being to the employee. The second case looks at the problems that arise when an employee’s work expectations are at variance with the employer’s expectations.

Both of these cases also offer insight into important tenets that are being formulated in the laws that apply to human resources management. The first case looks at the difficulty of dealing with the poorly defined concept of sexual harassment. While there is little disagreement about the need to keep sexual harassment out of the workplace, there is little agreement about how to define sexual harassment or to document its existence. Yet many employers and supervisors find themselves confronted with the need to make such definitions and to produce such documentation.

The second case looks at the management of physical disabilities in the workplace. Again, there is little disagreement about the need to give disabled

workers every reasonable opportunity to participate in the workplace or the need to provide reasonable accommodations for them. The key is to define what is reasonable. That definition challenges lawyers and managers alike, as this case shows.

Together, both of these cases underscore the need for fairness and sensitivity to the needs of employees in the workplace.

3

Sexual harassment issues

Editor's introduction

The elimination of gender as a consideration in employment decisions has been one of the most significant socioeconomic changes to occur in the last half of the twentieth century, particularly in the United States. Like other employers, local governments have opened up job opportunities for women in all occupations, from high-echelon positions such as local government administrator through highly specialized jobs such as police officer and even to such unskilled positions as public works laborer.

But it is one thing to reduce or, better still, eliminate gender barriers in recruitment and promotion processes and quite another to alter the attitudes and behaviors that affect the way in which women are treated once they have been employed. Changing attitudes and behaviors means changing more than laws and personnel procedures; it means changing people's habits and reflexive responses—the ways in which people have been taught to think and act.

Yet if full employment opportunities are to be accorded to women, and if the dignity of women is to be respected and promoted in the workplace, such changes are absolutely essential. Further, as federal employment law develops, it becomes increasingly clear that employers and supervisors have a responsibility to change not only the way in which they regard and treat women peers and subordinates, but also the way in which their subordinates relate to women in the workplace.

But that responsibility can be extremely hard to fulfill. There are no clear rules on what kinds of behaviors are or are not appropriate. The effort to gather information often produces little more than the intractable “he says, she says” scenario. Finally, the supervisor's obligation to prevent false accusations of gender-inappropriate behavior is as strong as the obligation to prevent such behavior from occurring.

As City Manager Gary Hopkins discovered in Westwood Heights, few tasks in human resources management are more difficult than that of discovering the correct way to deal with allegations of sexual harassment in the workplace.

Case 3 Problems in the building division

John Doe

Background

Westwood Heights is a suburb of approximately 20,000 people located on the outskirts of a large midwestern metropolitan area. Although a population of 20,000 is not exactly tiny, the city has what can be considered a “small-town atmosphere.”

Several years ago the citizens, tiring of the constant city council squabbles and turf battles wrought by the commission form of government, chose by a 65 to 35 percent vote to adopt the council-manager form. Since then, a few antimanager activists have talked openly of seeking another referendum, as soon as legally possible, to oust the new form of government. Their cause gained momentum when the first city manager, Thomas Froman, was fired after only six months on the job. Froman had the type of aggressive personality that did not really fit with Westwood Heights's conservative demeanor, and his early efforts at change served only to reinforce local residents' traditional skepticism of outsiders. Froman was replaced by Gary Hopkins, a Midwesterner who had enjoyed a successful managerial tenure in a small community located some distance away but in the same state. For both his own sake and that of council-manager government in Westwood Heights, Hopkins felt that he needed to provide a much less intrusive, less aggressive managerial style for the community.

At the time of this case, Gary Hopkins had been city manager for six months. Because the position of director of the planning and community development department was vacant, the department secretary, Sherri Broomfield, as well as the heads of the three planning and community development divisions (building, planning, and mapping) reported directly to the city manager.

The chief building official, Bob Jones, was sixty-five years old and had been employed with the city for fifteen years. In Hopkins's opinion, Jones was a terrible division head. He was antagonistic to his work colleagues, subordinates, and citizens and did not follow through on projects and requests assigned to him. He was loud, boisterous, and opinionated, and city employees tried to steer clear of him whenever they saw him coming toward them.

Although Hopkins had never heard from Jones directly on this subject, Jones was a frequent and vocal critic of the council-manager form of government. Rumors were that he had worked with local activists for a change in government. Jones also suffered from diabetes, which he claimed could be exacerbated by stress. He had been hospitalized two years previously, and Hopkins noticed that Jones sometimes experienced problems walking. Because of his health, Jones announced his intent to retire from the city nine months hence.

Jones's nephew Don also worked in the building division, having transferred there from the planning division about a year before. Don was an excellent employee with a good attitude and the well-reserved respect of his division co-workers.

The case

During a casual conversation between Gary Hopkins and Sherri Broomfield one spring day about six months after Hopkins's arrival, the subject of Bob Jones came up. During the course of the conversation, Broomfield mentioned that, among his other shortcomings, Jones was sexually harassing his part-time secretary, Phyllis Meyer. Hopkins was taken aback as much by the casual nature of Broomfield's comment as by the revelation itself.

Forty-eight years old, Phyllis Meyer had been with the city about two years. Broomfield said that she had advised Meyer to report the harassment to the city manager but that Meyer refused to come forward because she was afraid of Jones and of losing her job. Meyer considered Jones to be volatile and vindictive, and she feared that he would fire her or, at a minimum, make her life miserable. According to Broomfield, Meyer was willing to ride it out until Jones retired in nine months.

To further complicate matters, Sherri Broomfield also told the city manager that Meyer had developed a relationship with one of the building inspectors,

Roy Atkinson. Atkinson, a decent employee, had been living with Phyllis Meyer for about a year.

Hopkins's first thoughts were as follows:

1. Westwood Heights had a very active and aggressive daily newspaper that would not hesitate to exploit this sensitive situation if it found out about it. The *Westwood Heights Gazette* had no sense of community and wrote to appeal to the lowest common denominator of its readers. While he trusted the individual reporter who covered the city, Hopkins knew that the paper's editors would pressure her to get to the bottom of the story, were they to find out about it. The *Gazette* would call to solicit comments from Hopkins, city council members, and even Jones and Meyer.
2. To keep this situation out of the newspaper and to minimize disruption in the planning and community development department, Hopkins felt that he must keep it confidential, but he also felt an obligation to notify the city council at some point. Like most elected officials, the council did not like to hear things on the street or read about them in the newspaper before being informed of them directly.
3. Before consulting with an attorney, Hopkins felt that he needed more facts about Phyllis Meyer's concerns and her relationship with Bob Jones. He trusted Broomfield, but he did not know about Meyer's credibility. He also felt that he had to talk to someone close to the situation who knew what was happening, yet someone he could also trust to tell him the truth and keep quiet.

Hopkins decided to meet with the building services supervisor, Mark Thompson, who had been with the city for about fifteen years. Thompson had come up through the division ranks, was gruff with a rough exterior, but was also a straight shooter who was popular with the employees. Hopkins also knew that Thompson disliked his boss, Jones, and would tell Hopkins the truth.

Hopkins met with Thompson, who confirmed some of what Meyer had told Broomfield. Thompson had heard Jones make several sexually suggestive remarks, including comments about Meyer's body and shape and her sex life with her boyfriend. When Hopkins asked Thompson why he had not reported this to him earlier, Thompson replied that he was also afraid of Jones and was not sure that he could trust the city manager to handle the situation in a way that would protect him. He also claimed that he had told Meyer to contact Hopkins, but that she had refused.

Hopkins felt that he was now ready to confront Phyllis Meyer, but it occurred to him that he could make a very bad situation even worse. With Jones's nephew and Meyer's boyfriend also employed in the building division, the situation could turn into a major blowup with even more people hurt.

Hopkins decided to consult with a labor attorney he knew well. The attorney told Hopkins the following:

1. Once Hopkins had knowledge of possible sexual harassment, he had a legal obligation to investigate it.
2. Hopkins's failure to act would expose the city to serious liability.
3. Hopkins could not take action against Bob Jones without getting his side of the story.
4. Separation of the two parties involved might be necessary to avoid a hostile work environment. A "hostile work environment" is a legal term that is a big key to sexual harassment cases.
5. Hopkins should keep the matter as discreet and confidential as possible to avoid workplace disruption and to protect the rights of the parties involved.

With this information and advice in hand, Hopkins decided that Jones was probably sexually harassing Meyer. However, Meyer's refusal to bring the matter to his attention was making his task more difficult. In order to proceed, Hopkins decided that he must encourage Meyer to trust him. Thus, one week after first discussing the situation with Sherri Broomfield, Hopkins asked her, in her capacity as the planning department secretary, to ask Meyer to come in and see him. Broomfield did so, but Meyer again refused. Feeling that there was no other alternative, Hopkins called Meyer and ordered her to come into his office immediately after work.

Meeting with Phyllis Meyer

In Hopkins's meeting with Phyllis Meyer, he came right to the point and asked her if Bob Jones was sexually harassing her. She responded that Jones was not the same person since his hospitalization. She also said that she did not want to cause any problems with Jones and that she thought she could put up with the harassment until he retired in nine months. Meyer also said that she was concerned about Jones's nephew Don, who was "a nice kid." She said that she did not think she could face them if any of this got out.

Hopkins asked Meyer what she would do if he made an issue of the sexual harassment, and she responded that she would "just deny it." Hopkins explained to Meyer that he had a legal obligation to look into the matter and further investigate it. He also asked her to explain and describe some of the events that had taken place. Meyer acknowledged that there had been two physical incidents and numerous verbal incidents. The first physical incident had occurred about six months previously, when Jones was sitting in a swivel chair at his desk. Meyer walked by and Jones had turned in the chair and touched her between the legs. Meyer said she slapped his hand away and called him a few "choice words." She further related that Jones did not actually grab or molest her but rather "brushed with his hand."

The second physical incident occurred several weeks later, when there was some commotion outside in the city hall parking lot. Meyer went over to look out of the window, and Jones came up behind her and "pressed himself" against her. She said she was shocked, turned around, and tried to "knee him where it counts." Jones responded by laughing it off, but Meyer stated that Jones knew that she was "real mad." As far as other physical abuse went, Meyer stated that Jones was always "touchy/feely"—constantly touching her arms, hips, legs, etc. Although this did not happen every day, she said it did happen several times a week.

As far as verbal harassment was concerned, Meyer reported that Jones said things to her about how he liked to have sex and suggested sexual acts in different positions that she could perform on him. He also made comments about her body—specifically, her breasts—and asked about her sex life with her boyfriend. Meyer stated that she constantly told Jones to "shut up," that it was none of his business, and that "one of these days" he was going to be sorry for the things he said to her. She alleged that she had repeatedly asked Jones to stop harassing her.

Hopkins asked Meyer if Jones had acted that way because of the way she acted. In other words, did she encourage his behavior by swearing or including herself in his conversations? Meyer answered, "No way." Hopkins asked her who else in the building division might know what was going on. She mentioned one other employee and the building services supervisor, Mark Thompson. She said that Thompson had told her to go talk to the city manager but that she had been too afraid to do so. Hopkins then told Meyer that he was inclined to believe her but that it could be her word against Jones's. He asked

her how he could know for sure that she was telling him the truth. At that point, Meyer offered to tape record all of her conversations with Jones.

Hopkins ended the meeting with Meyer by asking her to keep the whole matter confidential, and she agreed to do so. He also told her that he would not do anything without talking to her first.

Throughout the interview, Hopkins could see fear all over Meyer's face. She acted like most other sexual harassment victims who have experienced what she had. She saw Bob Jones as a big bully who had sole power over her job.

Meeting with Bob Jones

Hopkins was now finally ready to confront Jones. However, the day after Hopkins's interview with Meyer, Jones was taken back to the hospital with diabetes complications. Although it was not as serious as his previous hospitalization, he was off work for a week. After Jones's return to work, the building services supervisor, Mark Thompson, called Hopkins and told him that Jones was threatening to sue the city, saying that work and its related stress had caused his health problems. Hopkins was determined not to let that threat deter him from confronting Jones, which he did ten days after his meeting with Meyer and five days after Jones returned to work.

Hopkins began the meeting with Jones by saying that he wanted to talk to him about a very "sensitive and confidential matter." He stressed that point because he did not want Jones to discuss with anyone what Hopkins was about to discuss with him. The city manager asked Jones if he understood what he, Hopkins, had just said, and Jones responded that he did. Hopkins further stated that any action on Jones's part to discuss this matter with anyone would be considered insubordination and result in disciplinary action.

Hopkins told Jones that it had been brought to his attention that he had been sexually harassing Phyllis Meyer. He also told Jones that it was city policy not to permit or tolerate sexual harassment and that he, Hopkins, had good reason to believe that the allegations might be true. The city manager told Jones that, on the advice of legal counsel, he had an obligation to investigate the matter and that part of his investigation was to hear Jones's side of the story. Hopkins told Jones that the allegations included numerous occasions over the past several months during which he had discussed with Meyer her sexual history and made inferences about her sexual relationship with Roy Atkinson, remarks about her body and specifically her breasts, and suggestions regarding different sexual intercourse positions.

Hopkins asked Jones if he needed a definition of sexual harassment and Jones said no. Hopkins then asked Jones to respond to the allegations. Hopkins was struck by the fact that Jones was, under the circumstances and for him, remarkably calm.

Jones told Hopkins that he had talked to Meyer about a variety of subjects that he might have read or heard about in newspapers, magazines, and on television and the radio. Sex happened to be one of those subjects. Jones admitted to all the conversations; however, he said that they were all encouraged and "promoted" by Meyer.

Hopkins repeated some of the remarks that Meyer attributed to Jones and Jones denied none of them. Jones further stated that Meyer casually used the "f" word "all the time." He said that he had nothing to hide and that Meyer was "no saint herself." She talked to Jones about her sex life with Atkinson, sex with her ex-husband, and past sexual encounters with other men. Jones said that sometimes Meyer did not wear a bra, that she was divorced, and that she was currently "living in sin" with one of his employees.

Hopkins told Jones that some of the alleged instances of harassment involved physical as well as verbal abuse. He described the two instances in which

Meyer claimed that Jones had physically abused her, and Jones denied both of them. Regarding the incident by the window, Jones denied that he had pressed himself against Meyer and stated that she had “backed into him.” Hopkins reported to Jones Meyer’s insistence that she had constantly asked Jones to stop the sexual innuendo and remarks. Jones denied this, insisting that Meyer had encouraged and promoted his comments.

Jones further denied that he had ever touched Meyer and offered to take a lie detector test, if necessary. He said that he treated Meyer just like he treated “other girls” who had worked for him. He admitted having sexual discussions with the “other girls” and emphasized that he was not interested in Meyer because he was “a happily married man.” He also said that he did not want to catch AIDS.

Hopkins asked Jones if he could work with Meyer again, and Jones said it would be “no problem” in the future. Jones then went on to assert that he neither believed in, nor liked, having two employees in the same division who were married to each other. He alleged that Meyer was “up and down” and that one minute she would enjoy sexual conversations and the next minute she would be “moody.” Hopkins asked Jones if her moodiness had ever given Jones an indication that his remarks were unwanted and unsolicited. Jones responded that he was never given that impression because Meyer was always kidding around and “you [could] never tell where she was coming from.”

Hopkins asked Jones if he had used good judgment in discussing intimate sexual matters with a female subordinate. Jones responded that he did not use bad judgment because he had acted in “good faith.” Jones claimed that he never intended to have sex with Meyer. Hopkins asked if there ever was any intent to humiliate her. Jones said there was not. Hopkins asked Jones again if Meyer had ever resisted his remarks or advances and had ever asked him to stop. Jones responded that if she *had* ever asked him to stop, he would have done so.

Hopkins asked Jones why Meyer would say all of these things, and Jones responded that she “is sick and needs a doctor.” He then admitted that once, when they were talking about oral sex, he had said that Meyer “should practice on me.” Hopkins explained to Jones that in sexual harassment, it is not the intent that matters but the impact on the individual.

In conclusion, Hopkins gave Jones a letter instructing him again not to discuss the situation with anyone in the workplace and warning that if he did so, it would be considered gross insubordination and he would be disciplined. The city manager also told Jones that he wanted to think about Jones’s responses to his questions and that he would meet with him again before deciding what he was going to do.

The decision problem

In light of the city’s potential liability exposure because of this problem, the possible negative publicity and public reaction, and Hopkins’s legal and ethical obligations to both of the employees involved, Hopkins knew that he did not have the option of either ignoring the problem or waiting to see if it would resolve itself. Also, as much as Hopkins disliked his chief building official, he knew he had to be fair and impartial—to conduct an honest investigation and find out the truth.

There were other issues at stake as well. First, given the uneasy experience of council-manager government in Westwood Heights, Hopkins felt that both his and the form of government’s credibility were at stake. Second, since he was still fairly new to Westwood Heights, he knew that how he handled this situation could and probably would define his leadership in the community and his relationship with the building division, the planning and community de-

velopment department, the city employees, and the city council. Further, Hopkins felt that he needed some eyes and ears in planning and community development—someone who could notify him if the lid was about to blow. Finally, he knew that liability exposure to the city could come not only from Phyllis Meyer's direction but from Bob Jones's as well. Jones had diabetes and, because of his dislike for the city manager and its form of government, had motivation for legal action of his own.

The first decisions

Hopkins decided that, since Meyer had less incentive to lie than Jones, she was probably more credible. Moreover, while both Jones and Meyer could expose the city to liability, Meyer's potential case against the city was much more likely to inflict severe financial and public relations consequences than was the threat of legal action by Jones.

After talking again with Meyer, Hopkins made the very tough decision to leave her in the building division for the time being. He knew that this action would continue to expose her to a hostile work environment and thus increase the risk of a lawsuit, but Meyer had expressed a reluctance to take a leave of absence. She told Hopkins that she would be uncomfortable with such a leave and feared that it would lead other employees to "wonder what was going on."

At the same time that he made that decision, Hopkins also asked the building services supervisor, Mark Thompson, to act as his "eyes and ears" in the division. Thompson agreed to tell the city manager about any rumors he heard and to monitor Jones's and Meyer's behavior at work.

Hopkins then decided to talk to the other building division employee that Meyer had mentioned. The employee told the city manager that he had heard Jones mutter "off-color" comments but had seen nothing to indicate that Jones was sexually harassing Meyer. However, after several days, the tension between Meyer and Jones became more than either one of them could handle. As a result, Hopkins put Meyer on paid leave and instructed her to stay home from work until the situation with Jones was resolved.

The second decision

Hopkins felt as if he were back where he had started. Jones still had more than eight months to go until his planned retirement date, neither the building division nor Jones could function without secretarial assistance for that length of time, and Hopkins could not justify keeping Meyer on paid leave for eight months. Furthermore, unless he was willing to create a new position elsewhere, Hopkins had no other position to which to transfer her. The transfer alternative was dangerous in another respect as well. For budgetary reasons, Hopkins had been trying to hold the line on the creation of new positions; if he created a new position for Phyllis Meyer, his action would encourage other city offices to ask for new positions. Besides, Hopkins also knew that transferring Meyer could exacerbate the city's liability in the case: such an action would provide prima facie evidence that her complaints had merit, and it could also suggest that the city manager was trying to sweep the matter under the rug rather than dealing with it directly. Hopkins knew he had to act.

But Hopkins also knew that his options were limited. Any action he might take against Jones would be predicated on evidence that was uncertain at best. Yet there appeared to be no way in which Jones and Meyer could continue to work in the same office. Finally, the longer he delayed action, the greater the risk that the local newspaper would hear rumors, perhaps started by employees questioning the reasons behind Meyer's leave of absence, and start its own investigation. That could only have disastrous consequences for the city, for

himself, for the council-manager form of government, and likely for both Jones and Meyer as well.

Gary Hopkins faced a classic problem—one with no good options and plenty of risk in whatever option he might select—and he knew he had to make a decision.

Discussion questions

1. Should Hopkins have permitted Meyer to continue to work in the questionable environment? Why or why not?
2. How should Hopkins proceed further with an investigation? With whom should he talk next? What more, if anything, can or should he do to keep a lid on the situation? At what point should he consult with or inform the city council?
3. Should Hopkins talk to other building division employees? To do so may jeopardize confidentiality; not to do so may result in an investigation that is not as thorough as it should be.
4. How substantial is Hopkins's case against Jones? What are the specific charges of misbehavior that constitute the sexual harassment accusation? What kind of evidence is needed to substantiate the charge that a hostile work environment exists? Does Hopkins have that evidence?
5. If the evidence of wrongdoing on Jones's part is sufficient to generate serious public criticism of the city for allowing Meyer's work environment to exist but insufficient to support legal action against Jones, what should Hopkins do?
6. Assuming that Hopkins could justify disciplinary action against Jones, what would be suitable discipline for such an offense? How, if at all, should Jones's health problems or his feelings about the council-manager form of government be considered?
7. Hopkins has ordered Jones not to discuss this situation with anyone at work, but how can he prevent Jones from talking to his wife or, for that matter, his nephew Don?
8. What options are available to Jones? What are the risks associated with each option?
9. What course of action should Hopkins pursue?

4

ADA issues

Editor's introduction

While a good human resource management strategy calls for making every reasonable effort to merge employee job expectations with employer needs, there may be problems in trying to fulfill such a strategy. What is the employer's responsibility when employee expectations are not consistent with the employer's definition of job requirements and needs?

Nowhere is this question posed in greater perplexity than it is on the issue of employees who are disabled by physical or emotional limitations. Sometimes these limitations can be accommodated without much difficulty: an employee who develops mobility limitations can be retrained for a desk job, for example, or job duties can be reassigned among positions to tailor a position for someone who can do some parts of a job but not others. At other times, however, it may not be reasonably possible to redefine a job or more satisfactory positions may not be available. Then the resulting problems can give rise to disagreements and confrontations—and increasingly to litigation.

This question became more complex with the national government's passage in 1990 of the Americans with Disabilities Act, which imposed legal requirements on employers, including local governments, to accommodate persons who might bring special requirements to the workplace. The social, humane intent of the act has not been questioned. But, like so much legislation, the key problems arise in efforts to implement it.

While the act opened up more employment opportunities for persons with special needs and circumstances, it also imposed added burdens upon employers to make reasonable accommodations for such persons. The key word is *reasonable*; the task of determining what is reasonable is the focus of the case that follows.

Case 4

The disabled parks employee

Don A. Cozzetto and Helen E. Cozzetto

Background

A very large West Coast city, Hillside is a major seaport and the core city of a large metropolitan region with a very heavy industrial base. Situated in a scenic locale, the city also serves as a magnet attracting a large number of visitors each year. Hillside places much emphasis on its parks and has deservedly earned a wide reputation for its creative and unusual park facilities.

The parks, in turn, are managed by the Hillside Park District, a special-purpose local government authority whose mission is “to perpetuate and ensure

the community's rich heritage of parks, water, bike paths, the zoo, hiking trails and other natural resources for the benefit of present and future generations." The park district is headed by a board of directors composed of seven elected representatives. These seven, in turn, elect a chairperson. The chief administrative officer is an appointed director. Three assistant directors—for operations, parks, and recreation—report to the director. Although the board bears ultimate responsibility for the park district, most of the district's revenues come through transfer payments from the City of Hillside. The district manages forty-six municipal parks and employs 462 permanent staff.

Like most local governments, the City of Hillside was suffering from increased demand for public services even while it faced a reduction in transfer payments from the federal and state governments and a reluctance on the part of community residents to pay higher property taxes and user fees. The mayor and council were at odds over what combination of spending cuts and tax increases would allow for the provision of the most efficient public services.

The politics surrounding the park district's revenues from the city was exacerbated by park board decisions to cut back on the number of hours that district parks remained open to the public, to close some parks altogether, and to increase user fees to deal with the revenue shortfall. This decision angered many residents because they took pride in their beautiful park system and believed that the public has a right to use these public facilities at any time. Numerous reports appeared in the media criticizing these decisions and claiming that the public was being asked to shoulder an inappropriate amount of the burden. Needless to say, the mayor and city council were seriously disturbed by the controversy.

The case

Susan Reid, the former assistant director of parks for the Hillside Park District, had been an employee of the park district for seventeen years. With an undergraduate degree in recreation, she began her career as a parks officer and was later promoted to manager of operations, a position that demanded a great deal of fieldwork and "hands-on" experience. Her performance record over her seventeen-year employment was good, and every year she had received a merit pay increase. After thirteen years, she was promoted to assistant director of parks.

Then, ten months before the start of this case, Reid was involved in an automobile accident that left her paralyzed from the waist down and permanently confined to a wheelchair, although she retained full use of her upper body. During her convalescence, Paul Mahon, one of her subordinates, was brought in as acting assistant director of parks. Upon her recovery, Reid insisted that she be allowed to resume her previous duties. Bob Thomas, the director of parks, met with Reid to explain that her injury precluded her from continuing to manage the park system. He agreed that she could still fulfill her administrative/office duties but was convinced that she would be unable to do the fieldwork essential to the position of assistant parks director. He informed her that Mahon would assume all her former responsibilities on a permanent basis and offered to reassign her to a headquarters administrative position with the job title of special projects coordinator. Her salary and benefits would remain the same.

Two days after the meeting with Thomas, Reid wrote to him asking him to reconsider. Her letter contended that, despite being confined to a wheelchair, she could still be an effective manager with the cooperation of her staff and the district. She further explained that any fieldwork that she could not handle could be delegated to one of her staff. Reid argued that reassigning her to a headquarters "desk job" was an ineffective use of her talents and demeaning

to her personally. Thomas's written response reaffirmed his previous decision and requested that she decide within one week whether to accept the offer of a headquarters administrative position.

Reid was angered at the manner in which this matter was being handled. After all her years of loyal service, she felt hurt and betrayed. Four days after receiving Thomas's letter, she filed a formal written grievance with Thomas's supervisor, the chairman of the park district board, John Wilson. Wilson telephoned both Thomas and Reid to arrange a meeting to discuss the situation. During the meeting, Wilson listened to arguments from both parties and ultimately decided to seek advice from the other board members. The matter was discussed at the next board meeting one week later. Four of the seven members agreed to support the decision of the director; the other three insisted that legal advice be solicited before they proceeded with any action.

Wilson decided that a majority opinion of the board was all that was needed and proceeded to arrange another meeting with Reid and Thomas. At that time, Wilson explained that, although Reid's accident was unfortunate, the majority of the board concurred with Thomas that she was no longer capable of fulfilling all the mandated duties of assistant director of parks. He explained that because she was a valued employee, she was being offered the position of special projects coordinator. Reid became very upset and levied several accusations against both Wilson and Thomas before abruptly leaving the meeting.

The next day, Reid contacted her lawyer to determine what to do next. Her attorney, Ann Leslie, informed Reid of the protections offered to the more than 40 million disabled Americans under the 1990 Americans with Disabilities Act (ADA). Leslie explained that the Hillside Park District clearly violated Reid's rights in that it made no attempt to provide reasonable accommodation to allow her to continue as assistant director of parks. Reid agreed to allow Leslie to file an appeal on her behalf with the U.S. Equal Employment Opportunity Commission (EEOC).

In the documentation filed before the commission, Reid claimed that all parks within the city's system were not accessible to disabled people. She contended that this constituted discrimination under the ADA against disabled employees as well as disabled members of the general public interested in using the parks. Citing innovations undertaken by the National Parks Service, the U.S. Forest Service, and several state park departments in promoting outdoor recreational opportunities for those with disabilities, Leslie argued that the city should provide wheelchair access within the parks system so that disabled individuals could enjoy the same recreational opportunities as able-bodied individuals. Leslie's complaint indicated that, if the access was provided, Reid would be able to continue as assistant director and the cost associated with compliance would not impose an undue hardship on the park district or the city.

In its response, the city argued that making the park system accessible to disabled people would indeed impose an undue hardship. The costs would be in the tens of millions of dollars. Moreover, in the larger parks, providing wheelchair ramps and special dock facilities for these individuals would ruin many of the pristine settings that the public so much enjoyed. The mayor and council of Hillside were very concerned that, if Reid won her appeal, not only could the costs to the city be considerable but the negative publicity could be politically very damaging as well.

The decision problem

Several weeks after Reid's complaint was filed, the EEOC responded to both parties with an offer to arbitrate the dispute. Thomas met with Wilson and the district's legal counsel, Ron Farber, to discuss the district's response to the EEOC. Wilson told Thomas that a majority of the board would support what-

ever course of action that he and Farber selected, but he again cautioned the two executives that the political environment would not be likely to support the level of expenditures required to make the district's parks fully accessible to the disabled population.

Farber told Thomas that the district had three options:

1. It could cooperate with the EEOC's arbitration effort. If the effort was successful, the district would avoid the need to adjudicate the matter before the EEOC. Any arbitrated settlement, he cautioned, would almost certainly mean that the city would have to make some accommodation to Reid and that any such accommodation would, again almost certainly, involve restoring her to her former position as assistant director of parks.
2. The district could, however, refuse to go to arbitration on the matter of Reid returning to her former position, in which case, unless Reid took the unlikely step of withdrawing her complaint, the dispute would be formally adjudicated before the EEOC. Farber informally offered his opinion that, under the law as strictly (or literally) interpreted and applied, there was a strong chance that the district's position would prevail in such a hearing. But, Farber cautioned, there was also a good chance that the EEOC would not apply a strict, literal interpretation of the law. The EEOC, he reminded Thomas, was established to protect disabled employees, and this charge might predispose its members to favor Reid or, at the least, to see the case as an opportunity to make Hillside's parks more accessible to disabled people.

If the EEOC acted in this fashion, Farber advised, it would grant most or all of the relief that Reid sought. The park district could appeal the decision to the federal courts, but such an appeal would take several years; incur a very substantial cost, perhaps as much as several hundred thousand dollars; and still not promise victory. "No one can predict with any certainty how judges will respond to any particular case. A judicial hearing is always something of a crap shoot," Farber explained. Finally, Farber added, if the city lost its appeal, it probably would also have to pay Reid's legal expenses.

3. The city could delay while it undertook negotiations with Reid to see if the dispute could be resolved without involving the EEOC. In such a case, the city would obviously have to make some kind of offer accommodating Reid. Such an offer, he added, would certainly require some kind of financial settlement to cover her legal bills and offer her some kind of monetary compensation—a severance agreement if she decided to leave the city's employ, for example. On the other hand, he thought that Reid saw the dispute as more a matter of principle than of compensation and that, if he was correct in this view, she would not settle for less than reinstatement in her former position.

While Thomas was inclined to agree with Farber's opinion about Reid's response to the third option, he felt it was worth a try. He asked Farber to contact Leslie and ask if Reid would be responsive to a generous monetary settlement that might include, in addition to or in place of severance pay, support for additional education or whatever else Reid might desire to prepare better for the lifestyle ahead of her.

Farber met with Leslie to discuss a monetary settlement, leaving the nature and amount of such a settlement open for discussion. Leslie, after consulting with Reid, refused to consider such a resolution of the dispute.

Thomas was now back at square one, but with his options reduced to the first two listed above. He was in a real quandary. His basic, human instincts told him to yield to Reid's requests. She had always been a good worker, and he had come to value her as a friend as well as a key member of his work

team. Further, he was sympathetic to her plight. He felt terrible about what had happened to her, and he knew that, if he were in her place, he would also work to retain as much of his predisabled life as he could.

Finally, Thomas was, in general, sympathetic to the plight of disabled people. He wanted them to be able to enjoy the city's parks and had tried, where he could within the confines of his budget and master plan for the park system, to accommodate their needs. Yet he was also convinced that the goal of complete accessibility for them was neither practical nor sometimes even possible.

In terms of practicality, for instance, the costs were unquestionably exorbitant. Even if the park district had the tens of millions of dollars needed to make its parks fully accessible to disabled people, such an expenditure would not pass any cost/benefit analysis. That same sum of public money, spent on a general expansion of parklands, facilities, and services, would provide enhanced services for hundreds of times more people, including many disabled individuals.

In that same vein, no matter how much he or the advocates of disabled people might wish for it, there were some jobs that people with disabilities simply could not do. A wheelchair-bound person could not, for instance, work as a firefighter. He was convinced that the position of assistant director of parks fell into that category: the person in that position needed to be able to move about and through the parks, not only to observe personally the condition and needs of the parks, but also to see, meet, and interact with park users, thereby gaining firsthand impressions of the public's reactions to the park facilities and programs.

But despite all these values and sympathies, Thomas knew that he still faced a major obstacle: the resistance of the political system to the expenditure of substantial sums on park improvements that produced marginal benefits (a category that included benefits that would be enjoyed by only a few people). Given the climate of public opinion and public resistance to tax and fee increases, he knew that this was simply not an opportune time to push for major expenditures to make the parks accessible to disabled individuals. Any plan for increased park expenditures could, he felt, backfire and result in reduced park funding from the city.

In the back of Thomas's mind was yet another concern: how would the members of the EEOC respond to this case? On the one hand, despite the ADA guidelines, much of the vast federal park system was still not accessible to disabled people, and little was being planned to remedy that situation. Such a precedent favored Hillside. On the other hand, advocacy groups for the disabled population had been effective in choosing cases that would generate public sympathy to sustain their push for greater accessibility. Reid's complaint might offer them a very tempting opportunity. If they were to make a test case out of Reid's complaint, their involvement in any EEOC action could substantially reduce the city's prospects for success.

That would suggest the desirability of a negotiated settlement with Reid that would return her to her former position. As much as Thomas might favor such a settlement on personal grounds, he was convinced that a wheelchair-bound person could not function at the desired level of effectiveness in the position of assistant director of parks.

Thomas did not know what to do. He again sought Farber's advice. Farber summed up his previous advice and then added that, in recent years, the courts have become proactively involved in adjudicating cases arising out of personnel law—sexual harassment, discrimination, employment quotas, preemployment testing, AIDS in the workplace, and ADA concerns. There was good reason to be concerned about the potential judicial activism on ADA matters such as this. Several questions lingered as a result of the language presented in the act and in subsequent regulations developed by government agencies. For example,

how would the courts apply “reasonable accommodation” and “undue hardship” in the circumstances of this case? These were difficult questions to answer, Farber explained, and experience had taught that no one could accurately predict what the courts would do when asked to interpret legislation in the context of the relationship between employee and employer.

However, there was consensus in one area: public sector managers should always attempt to resolve these types of employment issues in-house and avoid the agony and costs associated with court intervention. “On the other hand,” Farber added, “this complaint provides little room for negotiation. Reid will not settle for anything less than reinstatement, and you, with very good reason, do not feel that you can accommodate that demand.”

Farber’s final comment offered Thomas little comfort: “There is no obviously good option from either a legal or administrative perspective. Certainly there are risks and costs in each option. The only way you can replace Reid in the assistant director’s position, I’m convinced, is to take the matter to an EEOC hearing. I feel we have a good chance of success if we do this, but I can make no promises. We could lose big in such a hearing and end up having to spend a huge sum to make our parks accessible to disabled people. I can’t make your assessment of the administrative and political considerations, but I will support whatever you decide. Before you make your decision, let me send you some background information on the ADA. Perhaps that will help you make your decision. It certainly will help you understand the kinds of issues on which we must be able to offer convincing proof.”

Key excerpts from the material Farber sent to Thomas are provided as Exhibit 1.

Exhibit 1 Legal notes on ADA interpretations

Legislation

There are two major pieces of federal legislation that protect disabled employees from discriminatory employment practices: the 1973 Vocational Rehabilitation Act (VRA) and the 1990 Americans with Disabilities Act (ADA). The VRA was the first major federal legislation aimed at protecting disabled individuals from discriminatory employment practices. It applies to federal agencies and entities that contract with the federal government. Later, many states passed similar legislation targeted at state and local government agencies.

Section 504 of the VRA states that no qualified disabled individual shall, “solely by reason of her or his handicap, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.” The act mandates that employers covered under its provisions make reasonable accommodation to qualified disabled employees and prospective employees.

The ADA went into effect on July 26, 1992. Adding muscle to the VRA, the ADA applies to all state and local governments and all private sector employers with twenty-five or more employees (fifteen after 1994). Although this case is framed within the context of local government, the law and the decision-making process that managers must follow are identically applicable in state government.

The ADA is divided into five titles. Titles I, II, and V are directly applicable to this case. In defining an individual who is disabled, the ADA identifies three important criteria. First, an individual is deemed to be disabled if he or she has a physical or mental impairment that substantially limits one or

more major life activities, including anatomical loss affecting one or more of the body parts. The ADA also defines major life activity as an impairment that restricts one or more of a number of normal physical functions, including walking and performing manual tasks.

The second criterion dictates that the individual produce a record of the impairment. The third criterion is for an individual to be regarded as having an impairment. In other words, if others treat you as disabled even if you do not consider yourself disabled—for example, if you suffer from severe physical deformity and are treated by colleagues in the workplace as disabled—the act applies.

The ADA dictates that employers make reasonable accommodation in employment practices, a term that includes job assignments, as long as the accommodation does not impose an undue hardship on the business or government entity. One should note, however, that the qualified disabled employee must be able to perform the essential functions of the position with or without accommodation.

Essential functions

If a disabled individual is denied employment or the opportunity for a promotion because he or she is unable to perform the essential functions of the position, the onus is on the employer to demonstrate that no accommodation could be made without causing undue hardship for the agency. If the ruling is appealed, the EEOC will examine the position description, the qualifications of other individuals in similar task environments, and the number of other employees who could perform the function. For example, could a municipality deny employment as a prospective police officer to a qualified applicant with dyslexia because the applicant could not complete police reports in an accurate and timely manner? Certainly not. Although the ability to document criminal activity accurately is an essential function of the position, reasonable accommodation could be made by providing a device to allow for voice recording of the reports.

Reasonable accommodation

The EEOC defines reasonable accommodation as “any change in the work environment or in the way things are usually done that results in equal employment opportunity for an individual with a disability.” Some examples of reasonable accommodation are

- Job restructuring
- Providing readers or interpreters
- Providing specialized equipment
- Modifying work schedules
- Adjusting employment examinations.

Undue hardship

Employers are not required to provide accommodation to disabled individuals if the requirement imposes an undue hardship. The ADA defines undue hardship as an accommodation that is “excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business.”

Thomas barricaded himself in his office, read Farber’s materials, and then began to consider his options. He had less than a week to respond to the EEOC. He had to decide on a course of action.

Discussion questions

1. Do you think that Susan Reid is still capable of performing the essential functions of the position?
2. Has the park district accommodated her disability in a reasonable manner?
3. Would giving her back the position of assistant director pose an undue hardship on the district?
4. Is Reid being unreasonable in her demands? Is she responding as you would expect a dedicated team member to respond? How should Thomas have reacted to Reid's response?
5. Evaluate Bob Thomas's reasoning about his decision. If you were in his place, how would you reason through his problem? How would your evaluation of his options be different? Why?
6. Was Thomas sufficiently sympathetic to the disability issue? Are there reasonable limits on the kinds of adjustments in job descriptions and work assignments that employers should be required to impose? As Thomas conceives of the job, the assistant director of parks must be able to move through the entire park system for various purposes. Is this reasonable? Is it necessary? Should Thomas be forced to change his expectations to accommodate a disabled person? Would you feel differently if Thomas had not offered Reid an executive job with the same pay and benefits?
7. Put yourself in the shoes of a member of the EEOC hearing this case. Based on what you know about it, how would you rule?
8. If you were Bob Thomas, what decision would you make? Why?

Introduction to part three: Relations with groups of employees

A productive workplace requires not only that each individual be treated with dignity and respect, but also that all of the workers collectively be treated fairly and with proper consideration for their efforts. Individuals will not consider themselves properly treated unless the workforce enjoys vertical and horizontal equity. This means that workers must be treated equally when compared with others who have similar credentials and responsibilities, and that they must be treated fairly when compared with others who have different credentials and responsibilities. The comparisons involved in such equity include both other workers within the same organization and workers doing similar jobs in other organizations.

Such equity is achieved primarily through the process of labor-management relations. A process involving continuing dialogue and interaction between management and the workforce, labor-management relations is sometimes conducted between management and formal organizations of workers, commonly known as unions. At other times, it is conducted between management and informal organizations of workers.

Larger local governments are more likely to have some or all of their workers organized into unions for the purpose of working together with management to define organizational policies governing the workforce. Such unions generally represent particular groups of workers rather than the whole government's workforce. Thus, for example, police officers, firefighters, and public works employees are each likely to have their own union. In such cases, the local government manager must work with each union separately to reach agreement on policies for that group of workers.

Smaller local governments often have either no unions or informal associations of employees that serve as a communication link between managers and employees. In these cases, the informal organizations sometimes represent groups of employees and sometimes represent the whole local government workforce.

The first case in this part of the book describes the process of labor-management relations in a local government with an informal association of employees. The second case examines the more complex kind of labor-management relations that typically exists when unions represent groups of workers.

Both cases also deal with the kinds of issues that are often found in such negotiations. The first case deals with fringe benefits and, in particular, the provision of health care benefits—a major issue on the table in contemporary labor-management relations. The second case deals with the classic labor-management issue, a dispute over wage policies.

5

Fringe benefits and health care

Editor's introduction

Health care has become one of the most troublesome issues in today's workplace. Humane values suggest that all workers and their families should be covered with health insurance that protects them from catastrophic health emergencies and assures them of regular care to meet their ongoing daily needs for the prevention and treatment of physical and mental health concerns. Yet the cost of providing such health insurance has catapulted alarmingly in recent years to the point where it has become a nearly impossible burden for either individuals or employers to bear. Health care, it seems, has become an unaffordable necessity.

This has led employers—those in local government as well as in the private sectors—to search for ways to control the cost of health care. One area of inquiry has focused on restructuring the kind of health care provided to employees. Increasingly, employers have turned to some form of health maintenance organization rather than to the more traditional fee-for-service form of health insurance to take advantage of the former's lower insurance premiums.

A second area of inquiry has focused on the kind of coverage to be provided. In this regard, three questions have been debated: (1) whether coverage should extend to health protection services such as physical examinations and well baby care, (2) whether coverage should include routine care as well as catastrophic emergency care, and (3) whether the insurance provided should cover 100 percent of health care costs or whether some portion of the cost should be paid by the person or family insured—a copayment option.

In a third area of inquiry, employers have been exploring options for payment of the premium. Three options are available: full payment by the employer, full payment by the individual, and payment split between the employer and the employee.

It is this third area that is the focus of the following case. Sun City has always provided full insurance coverage to its employees; now it wishes to consider offering such protection to its retired employees as well. While the kind of coverage to be provided is involved in this case as well, ultimately the issue comes down to cost sharing between the city and its retirees.

In the process, management must make decisions at three levels: (1) it must decide on a package that is both humane and fair to its workers, including present and future retirees; (2) it must develop a package with which the members of the city council can be comfortable—that is, a package that meets the retiree's needs in the short run and does not threaten the long-term fiscal health of the city; and (3) it must negotiate with its employees to be sure that the program will enjoy their support.

The resulting task involves simultaneous bargaining among management, council, and workers. It poses a complex set of problems, made more complex by virtue of the fact that Sun City has maintained good relations with its workers over the years and does not wish to threaten that relationship. This, in turn, gives the workers bargaining leverage. In the absence of a union, and not

wishing to provoke workers into forming a union, management finds itself faced with a need to play very sophisticated games of council-management and labor-management relations.

Case 5 **Retiree health care in Sun City**

Dave Millheim

Background

The government of Sun City has long been a place of economic and staff stability. Three of five city council members had been with the city since before the current city manager, Bob Adams, was hired ten years ago. This tenure has fostered a very successful working relationship between staff and council; between them they have built one of the premier resort cities in the southwestern United States. On average, the area enjoys 350-plus days of sunshine and boasts more than seventy public and private golf courses. Numerous hotels, restaurants, and shopping opportunities help to attract large numbers of year-round visitors and to generate a very substantial positive revenue stream to support municipal services. Through a combination of good geography, good planning, and consistent leadership, the city enjoys an enviable financial position when compared with that of its neighboring jurisdictions.

Although a full-service city, many of the labor-management issues that are typical in a full-service city do not exist in Sun City. This is a consequence of both the city's healthy revenue stream and the use of intergovernmental agreements to provide for services to Sun City residents. Police services are contracted through the county. Fire, recreation, water, and sewer services are contracted through various joint-power agreements with some of the neighboring communities.

The local government's full-time, in-house staff of ninety-eight persons has worked well together. Owing to a great living environment, affordable housing, competitive salaries, and good benefits, the employee turnover rate has been almost zero. With the exception of one retirement, only one other employee has left city employment for another job within the last three years. The stable staffing pattern has produced an average employee of 7.2 years' tenure and 44 years of age.

Scott Townsend was recently hired from a field of more than 250 applicants for a new position, the director of human resources. The city manager, Bob Adams, informed Townsend at the time of his appointment in January that Sun City was growing and that the challenges facing the staff were becoming more complicated in the human resources area. Adams wanted someone with professional human resource experience who could provide the technical guidance needed but also continue to maintain the family spirit that existed among the staff. Townsend had the necessary experience, having worked in a larger, full-service organization with substantially fewer resources and a more traditional labor-management relationship. For his part, Townsend anticipated a refreshing and sometimes difficult challenge to develop a human resources management approach in a city with significant financial resources and a distinctly nontraditional approach to labor management issues.

The case

This nontraditional approach became very apparent at a budget retreat attended by the city's senior management team in early March, two months after Townsend came on board. Adams had successfully used these budget retreats with all management team members in attendance to discuss any budget, salary, and benefits changes and to build consensus. Each March, the ten senior managers would meet to discuss budget generalities and city programs. Six weeks later the entire management team would meet to finalize the budget documents and handle whatever issues were raised at the first retreat. These two forums combined to create the budget and, more or less, to provide the staff direction for the coming fiscal year.

At the first budget retreat, during the discussion of an unrelated pension benefit, Adams strongly suggested that the city ought to have a retiree health care program for all employees. Very quickly, others agreed. When Townsend was asked his opinion, he stated that retiree health care was perhaps the most expensive benefit that a city could offer and that there were a significant number of related issues that should be studied before they came to any firm decision. The city manager was very upset with Townsend for "questioning the decision and not being a team player." Townsend was not aware that any decision had been made. After some rather heated and terse discussion, Adams directed Townsend to form an insurance committee of senior management and the chair of the Sun City Employees Organization (SCEO) to draft a retiree health care program outline for presentation to the city council. Adams wanted the program outline completed within six weeks so that the entire management team could endorse the plan at the April budget retreat.

Initial proposal development

Townsend met with Adams shortly after the first budget retreat and discussed how to proceed with the project. In this meeting, Townsend expressed his support in principle for employer plans providing health care coverage for retirees and described his experience in creating such a plan in the city where he had been previously employed. He also described the basis for his reservations. In his previous job, political pressure had led the city to approve a generous health care plan without an adequate long-term income stream. That plan, he said, was very likely to generate a fiscal crisis for the city in ten or twenty years, and Townsend had serious misgivings about any current action that would impose a high risk of serious, adverse fiscal consequences for future residents and taxpayers. Adams did not respond to this statement.

Both agreed that there were four necessary steps to creating a viable retiree health care benefit. The first step was to work out the draft program details with the insurance committee as soon as possible. After the program details were created, the next step would be to meet and confer with the SCEO regarding the proposed program. The members of the city's standing personnel committee (Adams [chair], Townsend, the planning director, the economic development director, and two council members) would then provide their input. Finally, the full city council would have to approve the program.

A few days after the budget retreat, the special insurance committee formed by Townsend at Adams's direction to consider health insurance coverage for retired city employees met for the first time. The committee consisted of six of the eight department heads, Dawn Wells (the planning director's secretary and chair of the SCEO), and the city manager's secretary. Over the course of the next few weeks, the committee met several more times and studied numerous issues related to a retiree health care program. Gradually, a program outline began to take shape.

Two schools of thought emerged during this process. The first was the approach led primarily by the planning director, Ron Steward, one of the oldest, most senior, and very successful department heads who also considered himself to be the staff's best and brightest member. Steward had a very quick wit and would forcefully share his opinions even when he was not asked. More to the point, Steward saw his role as defender of the oppressed employee. He wanted the city to bear 100 percent of the premium cost for both the active employee's and the retired employee's medical insurance. He said at the first insurance committee meeting that he would strongly oppose any costs borne by the employee, and he wanted very minimal qualifying criteria.

The second school of thought was advanced by Townsend and Peter Gordon, the finance director. Townsend and Gordon wanted cost-containment features, including significant qualifying criteria, built into the plan to minimize the long-term financial drains on the program.

Townsend knew that this benefit change was very important to the city manager and other senior city employees. He also knew that the primary responsibility for the success or failure of the program was being focused in his direction. Lastly, Townsend knew that everyone in the organization was watching as this was his first significant challenge since coming to Sun City.

Survey findings

As part of the insurance committee's research, Townsend surveyed thirteen different cities that Sun City used for salary and benefit comparisons. The significant findings of this survey were as follows:

1. Nine of the thirteen comparable cities offered some type of retiree health care option. All nine were continuation plans, which meant that retired employees kept basically the same medical insurance coverage in retirement that they enjoyed while employed.
2. Retiree premium contribution rates varied widely among the nine cities, ranging from the city paying 100 percent of the cost to the retired employee paying 140 percent of the cost. In the latter case, the city was charging a 40 percent differential above the actual premium. In that particular city, the cost structure resulted in the retiree paying \$693 a month for health care.
3. Sun City's current monthly medical premium of \$571 was very competitive when compared with that of the other cities. Sun City had also enjoyed very low rate increases in relation to recent national health care market cost trends.
4. Sun City paid 100 percent of the medical premiums for current employees, as did three of the survey cities. The remaining ten cities required a current employee to bear some portion of the premium cost.

The options

After considerable study and debate, the insurance committee's efforts began to take shape. Although many questions and issues were being raised, discussion tended to focus on some minimum requirements that the committee felt needed to be in the plan being put together. These included (1) ten years of service with the city; (2) retirement at age sixty or above; (3) employment with the city at the time of retirement; (4) identical health insurance coverage for current and retired employees; and (5) a clause in the policy saying the insurance plan is subject to change consistent with whatever future changes may occur with current employees. To arrive at a more equitable premium-sharing method, the committee also discussed using a sliding percentage scale approach similar to that used by the state's Public Employees Retirement System for calculating a pension.

Townsend decided to present these assumptions to the city's insurance brokers for review against the city's current medical insurance plan and to take whatever professional advice was given to strengthen the financial security of the program. He and Gordon met with the city's insurance brokers in early April. Terri Lee, the principal broker, recommended that the city establish retiree premium rates based on a "health rating" for each employee's individual health risk factor, and she provided rate information on such an approach. This meant that each employee could potentially pay a different premium. Townsend and Gordon felt that this was a bad idea for various reasons, but the numbers were very revealing in that they showed escalating costs to the program over time due to a high average age of employees compared with national averages. Lee also strongly argued against the ten-year minimum discussed by the committee, believing that anything less than a fifteen-year vesting requirement was way too liberal. At that point in the meeting, Townsend informed them that City Manager Adams was leaning toward an eight-year vesting requirement since city council members serve four-year terms and the city provided them with medical insurance. The brokers still felt that it was a bad idea, but they strongly agreed that the retiree must be an employee of Sun City at the time of retirement in order to qualify for the benefit.

The insurance committee spent a lot of time talking about a formula approach for cost sharing with the retirees. They used premium percentages beginning with the city paying 50 percent of the premium for retirees with ten years of service and going up in 5 percent increments to 100 percent of the premium for retirees with twenty years of service. It would be possible to "grandfather" in current employees at the 100 percent level and impose this new premium requirement only on future employees, but there were disadvantages to such an approach as well. One such disadvantage would be the negative morale effects on new employees, who might feel as though they had less of a benefit than more tenured employees.

The discussion with the brokers and further meetings with the insurance committee yielded three options. The first was a straight continuation plan through the city's existing insurance provider. Most members of the insurance committee favored this option since there was a great deal of satisfaction with the existing insurance and it provided a very high level of benefit. The second option would be a Medicare-integrated plan at both a substantially lower cost and a lower level of benefit. The third option was a health-rated plan similar to that recommended by Terri Lee and the city's brokers.

With this information in hand, Townsend summarized the study's progress to date in a memo to Bob Adams (see Exhibit 1).

Exhibit 1 Interoffice memo, City of Sun City

To: Bob Adams, City Manager
From: Scott Townsend, Director of Human Resources
Date: April 27
Subject: Retiree health care program—draft outline

Bob, what follows is a draft outline of the proposed retiree health care program. This is based on meetings and discussions with the SCEO, our insurance brokers, and you. Please review and let me know your thoughts. I have scheduled an insurance committee meeting for tomorrow at 10:00 a.m. My hope is to discuss this information with them prior to going to the budget retreat so that everyone is fully prepared.

Retiree health care program—draft outline

1. **Eligibility:** All full-time or part-time employees receiving health care insurance coverage through the City of Sun City are eligible to participate in the “Retiree Health Care Program” provided the following minimum criteria are met:
 - A. The employee must have at least eight years of continuous service with the City of Sun City.
 - B. During said employment, the employee must continually be covered by health care insurance provided by the city.
 - C. The employee must retire from the City of Sun City and be at least age 50 at the time of retirement.
 - D. If, for any reason, the employee is precluded or partially restricted from participating in the city’s health care insurance plan as an active employee, those same preclusions and restrictions will be in effect as they relate to retiree health care eligibility.
 2. **General provisions:**
 - A. *Coverage.* The retiree health plan components will remain the same, to the extent possible, as they were under the city’s primary health care insurance plan. The primary health care plan is determined solely by the city.
 - B. *Single plan program.* The retiree health care program is intended to have only one option, that being the city’s primary health care insurance plan.
 - C. *Change in coverage.* If, for any reason, the city elects to change the primary health care coverage in the future, retirees will also be placed, to the extent possible, under the new health plan. This is to ensure that there is no disparity in coverage between active and retired employees.
 - D. *Continuation plan.* This plan is intended to be a continuation plan of the city’s primary health insurance plan so that there will be no interruption in coverage. In order for this plan to be properly administered, active employees who are not covered by the primary health insurance plan prior to retirement will be required to switch coverage to the primary plan during any open enrollment period prior to the effective date of retirement. Failure to be enrolled in the primary health care plan prior to retirement will result in the employee not being eligible for coverage.
 3. **Costs:** There will be a two-tiered rate system with the city administering the following rate structures:
 - A. *Current employees (hired before July 1, this year)* will continue to receive the same cost contribution percentage for health care coverage (when retired) as they received from the city just prior to retirement (i.e., 100 percent).
 - B. *New employees (hired after July 1, this year)* must still meet the minimum criteria. Once the eligibility criteria are met and upon retirement, these employees will receive the following premium payment contribution percentage:
 1. Age 50—Fifty percent (50%) of premium as a base contribution.
 2. After age 50, the base contribution amount (50%) plus five percent (5%) for each year of full-time city service completed after age 50.
 4. **Effective date:** This program is recommended to be effective July 1 of this year after final approval by the city council and as soon as proper arrangements can be made with the insurance plan provider.
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Adams was very favorable to the draft outline described in the memo, as was the rest of the management team when presented with the draft at the second budget retreat. As Adams and Townsend had earlier agreed, the program outline also had to be presented to the SCEO and the personnel committee.

Townsend, Steward (the planning director), and Kathy Jones (the economic development director), who made up the management negotiating team, began the “meet and confer” process with the SCEO. The SCEO, which prided itself on neither being a union nor collecting dues, was accustomed to receiving very fair salary and benefit proposals from management. Over the last ten years, there had been few points of contention and even more rarely did the SCEO ask for or expect more than what management put on the table. Within two very short and cordial meetings, the management team and SCEO board members agreed on the content of ideas as outlined in Exhibit 1 to be discussed with the personnel committee. Management promised that, as soon as it had feedback from the personnel committee, it would meet and share that information with the SCEO board. This was when things began to get very sensitive.

The personnel committee

Some years earlier, Adams had formed the personnel committee to consider all salary and benefits changes and provide staff direction during the annual “meet and confer” process with the SCEO. A more important and unofficial purpose was to have the two council members on the committee take an ownership role in whatever was being discussed so that, when those issues were presented to the full council, they would act as a positive voice of persuasion upon the other council members. Historically, this strategy had proved successful with simple issues, but rarely had the personnel committee dealt with such a complicated benefit issue as retiree health care.

At first, the retiree health care plan was not at the center of attention with the personnel committee. At the two budget retreats, the management team had already decided to recommend some other significant benefit increases and these initially received more debate. On the basis of a salary survey, the city manager was recommending a 5 percent cost-of-living adjustment for all positions, both management and nonmanagement. Townsend also advocated raising the level of dental coverage and adding a new floating holiday to be used at the employee’s discretion. Finally, at Adams’s suggestion, Townsend had created a sick leave incentive program, in which an employee, upon voluntary termination, would be paid a substantial portion of his or her unused sick leave in accordance with a length-of-service formula.

The two council members on the personnel committee were Mayor Lynn Burns, a 65-year-old, small-business owner, and Brian Connor, at 42 the youngest and newest member of the city council. Burns was serving her last term on the city council and planned on retiring from both the council and her private business within two years. A lifelong resident of Sun City, she had seen the area grow from a desert wasteland into a beautiful economic oasis. She considered herself an advocate of the senior population and was very proud of the role she had played on the council.

Brian Connor was a debate professor at the local community college and a staunch supporter of environmental causes. He was one of the few council members who had openly clashed with the city manager on various issues. Connor was noted for sometimes arguing one position and voting another, depending on how he felt at the moment.

Burns and Connor quickly agreed to the dental increase and just as quickly rejected the floating holiday. The 5 percent COLA increase received more debate, but they ultimately said they would probably support it since the formula they approved for setting salaries showed it to be justified. The sick leave

incentive program was endorsed after a long and forceful debate. Both Burns and Connor expressed their confidence in and appreciation of the staff and also realized that the city could afford to implement the changes being considered. However, they were beginning to feel that all the city was doing was giving and nothing was being asked in return from the employees.

Connor put it bluntly, "You are asking us to give our employees a significant raise, increase their benefits, pay them for not being sick, etc., etc., all while our neighboring cities are laying off people and cutting salaries. Why should we? Need I remind you this is an election year for three council members, including the mayor?"

Mayor Burns asked why city hall office hours could not be extended since the employees were working a 37.5-hour workweek and being paid for 40 hours. Both Burns and Connor felt that any benefit increases would be much easier to support if the employees were providing an extra half hour of work at no additional cost to the city. Adams directed the negotiating team to discuss this option with the SCEO at their next meeting.

Regarding the retiree health care benefit, Mayor Burns said she was philosophically supportive but wanted more information. Connor, however, started his comments by saying that the city had no obligation to provide health care for retirees. He was ambiguous and seemed to be saying that the staff was reaching the limit of the number of new employee benefits that could or should be provided at one time. After a short discussion, Connor said that he would consider the issue.

Both Burns and Connor were pleased with the insurance committee's draft but wanted to see a few additions before either of them could support the concept. They made it clear that full support would depend on the total benefits package. Each made some helpful suggestions that were incorporated into the document. Connor thought a "statement of purpose" should be added, and he helped to draft the language. Burns thought the eight-year vesting requirement was too short. Adams pointed out that eight years was used because that equaled two four-year council terms and that the council members would be eligible for this benefit. This appealed to Burns and Connor, but they both insisted that a ten-year vesting requirement—at least three consecutive terms for council members—was more justified. They also said they would support the program if it was the right thing to do and not because council members would be eligible.

When Burns and Connor looked at the cost section related to premium contributions, however, they strongly disagreed. Burns felt that having two different cost structures was acceptable since this would save money in the long run. Connor said that this was discrimination against future employees who would have to pay more.

Steward offered a solution: "Pay 100 percent for everyone no matter their length of service. We are worth it." Ultimately, the personnel committee agreed there should be no difference between existing and future employees and that this should be relayed back to the SCEO. Mayor Burns wanted the outline modified so that retirees would be bearing at least 25 percent of the cost out of their own pockets. Townsend subsequently created a contribution formula based on an employee's length of service, which would have the city paying no more than 75 percent of the premium and the retired employee paying the remainder.

The SCEO board

In the final few meetings between the management negotiating committee and the SCEO board, Steward and Townsend, who had repeatedly disagreed with each other, were able to convince the board that this was probably as good

as it would get. A major point of contention became the council members' desire to have the employees work more hours in exchange for the very generous salary and benefit increases being offered. Both the SCEO board and the management negotiating team became entrenched in their respective positions.

Steward told the employees that he was on their side but that they were acting like spoiled children and ought to bend a little since they were clearly gaining more than they were losing. Dawn Wells, Steward's secretary and chair of the board, angrily responded by asking what the employees had done wrong and why the council was punishing them. The feelings on both sides of the table became so intense that negotiations were recessed for a few days to let everyone calm down. Other council members besides Burns and Connor were hearing the rumblings of unhappiness from both management and nonmanagement employees. Everyone had an opinion, and the tension was beginning to mount. Some were saying that all the agreements tentatively reached so far were about to be canceled. The additional office hour issue looked as though it could cause everything thus far put together to fall apart.

Adams apparently thought he could come to the rescue. Even though, in response to the council's wishes, he had specifically directed the management team to insist on the extended workweek, and even though he had not given his team any new instructions regarding management's bargaining position, he decided to meet with the SCEO board to see if he could work out a solution. After some late meetings with the SCEO board and Townsend, Adams was able to put together a pilot program with flexible scheduling, which extended operating hours but required no employees to work more total hours than they were currently working. Steward was very angry with Adams for "caving in and not supporting the team."

After one final meet-and-confer session with the SCEO and a wrap-up meeting with the personnel committee, Adams told Townsend to prepare a report to the full city council prior to its next meeting, embellishing the draft report and describing the entire salary and benefits package.

The city council meeting

Townsend gave the city council a rather thick staff report detailing a chronology of the meetings with the personnel committee and the SCEO. He also summarized the salary and benefits changes that had been discussed and that he was now asking the full council to approve.

After Townsend's report, Councilman Ted Smith, who was Adams's strongest supporter on the council, started the discussion. Smith believed the written staff report to be complete, was pleased with Townsend's presentation, and was prepared to move for approval of the recommendations as presented.

Councilman Albert White, who in more than ten years on the council had rarely voted in favor of any salary or benefit increases for the employees, thought that there needed to be more discussion regarding any salary and benefit increases. He said that he had a number of questions and wanted them addressed individually. The remainder of the council agreed, and for the next hour, White and others asked Townsend a variety of questions regarding each of the proposed changes. Finally, after some lengthy discussion, White asked Townsend why the council should support such high increases that would bind future budgets.

Townsend, beginning to feel exasperated, said: "I could go back over the pros and cons on each of these changes and start from scratch. I think each council member is very comfortable at this point as to what we are talking about. I am not going to answer that question by boring you again with the details. The simplest and straightest answer I can provide is that our employees are worth it. Sun City has always had dedicated employees who provide the

various city services. Our turnover rate is very low and should remain that way. This low rate, which is the best indicator of a satisfied workforce, is due to both the employees and the city council maintaining a work environment where dedicated service and longevity are rewarded. The philosophy that exists in Sun City is to treat employees well and fairly and to expect superior performance and dedication in return. The intent of providing a retiree health care option should be consistent and in harmony with this philosophy.”

After Townsend finished his response, he saw Steward was giving him a smile and a “thumbs up” sign. However, Connor said, “That is one of the best speeches I have heard, but you have not convinced me.” At that point, Adams and Connor got into a rather heated discussion about management philosophy. Adams wanted to know why Connor was not supporting the employees, and Connor accused Adams of “giving away the store.” Councilman White interrupted and suggested that he could solve the issue by having the council consider each change individually, as he had suggested over an hour and a half earlier. The rest of the council nodded in agreement.

The progress of the meeting then moved rather swiftly for a short time. The office hour change and pilot program for flexible scheduling were the first to be approved. The council also unanimously approved the dental benefit increase and sick leave buy-back at termination. The 5 percent COLA increase received more discussion, but it was approved on a 3–2 vote with White and Connor voting no.

All that was left was the retiree health care program, and this received considerable debate.

Councilman Connor suggested that the issue of retiree medical benefits be revisited after further study. He further stated that the council representatives at the personnel committee level did not enthusiastically support the program as outlined. When Adams disagreed, this brought about another heated exchange between the two.

Councilman Smith stated that he endorsed the plan that was presented to the SCEO. Mayor Burns agreed to support the plan if retirees would be required to contribute at least 25 percent of the cost. Connor asked if the plan could be adopted in principle pending the preparation of an additional report for the council, which would address all the specific concerns raised thus far.

Upon a motion by Councilman Smith, seconded by White and unanimously approved by the council, the concept of a postretirement medical care program as outlined in the existing report was approved subject to the following caveats: (1) there was no agreement on premium contributions; (2) further investigation of various specific issues, as identified in the discussion, was needed; (3) employees retiring after the date of the meeting would be eligible to participate in the city’s health care plan according to a formula to be established; and (4) Townsend was to submit his follow-up report to the city council within two months.

The decision problem

On the day after the city council meeting, many employees stopped by Townsend’s office and thanked him for his presentation to the council. The SCEO chair said, “Thanks for sticking up for the employees and telling the council what was right.” She also wished him well as he readdressed the cost issue and all the other issues of concern to the council.

Townsend was still not sure what the council had done regarding the retiree health care program, nor was he clear about everything he was expected to research and prepare within the next two months. After a few weeks of reviewing his notes and minutes from the council meeting and conferring with quite a few people, Townsend sat at his computer. The individual questions the

council posed would be easy to answer because he had prepared a detailed list of all the issues raised at the council meeting. These could be broken down into specific statements or questions, and almost all could readily be given a specific response.

However, it was the final recommendation on the cost/funding question that concerned Townsend. The council's direction was weak at best. In his gut, Townsend knew he was expected to come up with a recommendation that would pull the multitude of issues together and create a cost sharing and funding outline that everyone could endorse.

He decided to start with a review of the issues and problems. The issues, basically, could be reduced to one: the amount of the retiree's contribution to the pension plan. All seemed to agree that the city should pay at least 50 percent of the premium for employees with ten years' employment with the city and that the employees should receive additional credit for service provided to the city after the age of fifty. The debate focused on how many years of service after the age of fifty that exceeded the minimum requirement of ten years of service and on whether employees would receive additional credits that would increase the city's share of the premium still more. At issue was the question of whether these additional premium increases would accumulate until the city was paying 100 percent of the retiree's premium or whether the city's share should be capped at 75 percent.

The support for payment of the whole 100 percent came from the staff and clearly from the very influential planning director, Ron Steward. Although only one person, Steward was both very vocal and very influential, and he knew that the SCEO would be delighted with his stand.

The opposition to this plan came from at least four sources: Mayor Burns, who had made it clear that she favored the 75 percent cap; Councilman Connor, who was concerned that the city was "giving away the store" with this proposal and would thus be pleased to see the cap; Finance Director Peter Gordon; and Townsend. Gordon and Townsend both felt that the proposal to commit the city to funding 100 percent of the retiree health care premiums, while doable in the current fiscal environment, represented an unwise long-term commitment of city funds that could threaten the program's future stability and the city's long-term financial health. Townsend, with good reason based on past behavior, expected that Councilman White would also prefer the cap. That meant that three of the five council members were on his side.

The most severe complication came from Townsend's immediate supervisor, City Manager Adams. Adams's role in this issue perplexed Townsend. Like Steward, Adams was due to retire within a few years and would clearly benefit from the proposed retiree health insurance plan. Townsend suspected that Adams wanted full funding, perhaps as a shield for his own self-interest since he would not be working long enough to get full funding of his own health insurance as a retiree. Yet Adams was a person of extraordinary integrity, and it would be uncharacteristic for him to push any proposal out of self-interest. On the other hand, his role in the issue had been unusual from the start. Townsend still smarted from Adams's question at the initial meeting on the subject regarding whether Townsend was "a team player," and he could not forget Steward's criticism of Adams for "not supporting the team" after Adams's meetings with the SCEO board. In his several conversations with Adams, Townsend still was not sure where Adams stood on the details or what he would support.

Thus, Townsend saw himself caught between pressures from his staff colleagues on the one hand, and pressures from three of the five council members on the other hand. In such a situation, he knew, the council view should control. The complication was Adams, whose position might ultimately alter the council majority.

Finally, Townsend worried about the city's long-term fiscal health. He knew that the city's professional staff had an obligation to look at the long-term impacts of pending policy issues and that retiree health care could significantly affect the city's future fiscal health. Limits on the city's liability for premium payments would serve to cushion any adverse impact, however, and he felt that such a cushion was needed. In this, he found himself caught between his own instincts about the public's best interests—instincts supported by Peter Gordon—and major pressures coming from within the staff that he feared might ultimately sway a council majority, thus imperiling the city's long-term well-being.

Townsend had drafted his response to the other questions. On this issue, however, although he was not yet under time pressure for an immediate decision, he felt that he had to develop some kind of a strategy and position so he could start the process of building consensus toward his recommendation. As the computer cursor blinked in front of him, Townsend said a silent prayer and began to type.

Discussion questions

1. What is the “traditional” versus a “nontraditional” labor-management relationship? How would each method differ in addressing the retiree health care issue in Sun City?
2. Should the idea for retiree health care have come from management or from the SCEO? What is the role of management in presenting and creating such a program? What might have been the consequences if the press or the council's political opposition had charged a conflict of interest on the part of the mayor and senior administrative staff? How should the staff have responded to such charges?
3. What is the obligation of a local government to provide this kind of health care program for its retirees? To whom is it obligated? Is the obligation the same or different for local governments whose employees are covered by social security and Medicare as opposed to local governments whose employees are not covered by those federal programs?
4. Evaluate the features of the plan as approved by the personnel committee. Should the Medicare linkage for retirees have been developed as a cost-saving option? What about the vesting requirement? Are there other cost-saving options that could have been developed? Should individual council members be eligible for this benefit?
5. If you had been a member of the personnel committee, what kind of fiscal documentation would you have demanded before determining the kind of premium that retirees should contribute? Why do you think such fiscal data seemed to play only a minor, if any, role in the deliberations? Should Townsend have developed such data on his own initiative? Is this the kind of input the council may have been seeking in its repeated requests for more information?
6. What kind of future costs for retiree health care coverage can the city reasonably pass on to future generations of taxpayers? How can you balance the interests of current employees and future taxpayers in a matter such as this?
7. What could have been Townsend's response at the budget retreat when he was asked his opinion on retiree health care, knowing that this benefit would be very costly yet desired by almost all the members of the management team in attendance? What could Townsend have done after being chastised for not being a team player?
8. Should Townsend have expressed his concerns about an apparent conflict of interest to the personnel committee? Should he have expressed such a

- concern to Adams privately? Given the personal dynamics involved and Townsend's status as a new member of the staff, how should he have expressed his concern on the cost elements of the health care proposal?
9. How did the committee approach help or hurt the formulation and success of this program? What other approaches might have been used to accomplish the same or similar results?
 10. Should Adams have met with the SCEO board when the board and management negotiating team could not reach an agreement regarding the additional office hours? Is there some way in which this matter could have been better handled?
 11. If you were Townsend, what would you recommend to the city council?

6

Labor-management relations

Editor's introduction

Wage policies are perhaps the most enduring concern of both management and workers. Workers want to earn as much money as possible; management wants to keep labor costs as low as possible. In local government, low wages make it easier to provide services while keeping taxes down. Thus, the stage is set for continuing disputes over wage rates in government. And, as in the private sector, wage discussions sometimes lead to angry confrontations, especially when workers are well organized.

When they engage in collective negotiations with their employer, local government employees often have a distinct advantage. First, like their counterparts in private enterprise, they can exercise economic leverage through job actions—strikes where they are allowed, work slowdowns where they are not. Second, unlike workers in industry, local government employees can exercise political leverage by organizing themselves, their families and friends, and local community groups to vote for candidates who support their goals and to pressure elected officials on the workers' behalf.

Like their counterparts in private industry, local government administrators must limit their behavior in negotiations to actions officially approved by labor relations laws. Unlike private sector managers, however, government managers are much more constrained by budgetary limitations, the need for equity across departments, and public resistance to higher taxes. These constraints make labor negotiations difficult even when local government managers are sympathetic to the wage requests of their employees.

This case describes the plight of the city administration in Cedar Valley as it attempts to respond to ill-timed wage demands—first from its police officers and then from its firefighters. The case has all the elements of a typical local government labor relations controversy: substantial employee demands, tight budgets and taxpayer resistance to tax hikes, lack of experience on both sides of the negotiations, and reluctance on the part of the city to negotiate with employee organizations. The case develops like a chess game: move, counter-move; reaction, counter-reaction; and finally frustration, anger, and lack of trust on the part of all concerned.

Although the employees are well organized and function much like unions in the dispute, Cedar Valley does not formally recognize its employee organizations; they are not “unions” in the normal sense of that term. Therefore, this case has the added dimension of disagreement over with whom, if anybody, the city will negotiate. The city council's fear that its actions will lead to stronger collective action by its employees is very typical of local governments that do not have unions. Even many local governments with unions sometimes, and usually inadvisably, become more resistant to meeting employee demands for fear of fostering and encouraging unionization and collective bargaining.

Besides describing a common pattern of tense negotiations between workers and their local government employer, this case also provides a useful insight into a very common reaction by the general public. The firefighters mobilize

support for their wage demands from the same public that resists tax increases. Nothing in the American political philosophy or tradition requires consistency from citizens; however, consistently conservative behavior on money matters is always expected from government management, and, by law, most local governments must maintain a balanced budget and make wage settlements within that legal constraint.

From such a seemingly “stacked deck” comes imposing demands for leadership on the part of the public administrator. A characteristic of effective leadership is the ability to produce innovative solutions to seemingly intractable problems. Digging into their storehouse of organizational theory and administrative skills, the local government managers in Cedar Valley must search for such a solution.

Case 6

Cedar Valley slowdown

David N. Ammons and M. Lyle Lacy III

Background

Hot summer temperatures were mild compared with another kind of heat that plagued city officials well into autumn across the nation, particularly in the mid-South. Walkouts and slowdowns by public safety employees were occurring in rapid succession in several parts of Dixie. Each act of defiance seemed to encourage the next. Even those officials in the South who were not confronted with job actions could see them on all sides.

In that atmosphere, city officials in Cedar Valley probably should not have been caught off guard when police officers staged a work slowdown, but they were. Cedar Valley, a southern city of 30,000 residents, is a major center of employment in a sizable metropolitan area. Its municipal government is supported by significant property tax and sales tax bases and an unusually large component of intergovernmental revenues. It happened that the attention of city officials had been diverted to a hearing on the possible reduction or discontinuation of the intergovernmental revenues when twenty-three officers—one-half of Cedar Valley’s total force—declared a work slowdown to dramatize their demands for higher pay, enhanced benefits, and improved working conditions. Among the most important demands were the following:

- An immediate 15 percent increase in pay
- “Hazardous duty” status in the city’s classification plan
- Extra pay for evening and midnight shifts as well as time-and-a-half for weekend work
- Incentive pay for education, physical fitness, and marksmanship
- Discontinuation of the merit system in favor of automatic step increases and longevity pay
- Establishment of an exercise facility
- Improved insurance coverage and the elimination of employee contributions for insurance and retirement
- Enhanced benefits for the purchase and maintenance of police uniforms.

The demands, which were presented in a petition to the city council and city manager, were signed by twenty-three police officers. The timing could hardly have been worse.

The day on which the police officers made their declaration, September 7, was slightly more than two months into the city's fiscal year—too late to adjust the tax rate and ten long months before any major changes could be made through the normal budget process. Furthermore, city officials were preoccupied at the moment with the possible loss of a major intergovernmental revenue source, a budding crisis that jeopardized even the current budget and made unthinkable the additional financial pressure that would be imposed if the police officers' demands were met.

Compounding the problem of poor timing was the relative inexperience of two key members of the city's management team. Although both had served previously in other capacities in Cedar Valley, Bill Martin had been city manager for only three months, and his new principal assistant, Larry Bristol, had been director of administration for only one week.

If there was anything fortuitous about the timing of the police slowdown notification, it was that a hearing on intergovernmental revenues had drawn virtually the entire city council together in one place, and Martin was thus able to brief the council immediately on the slowdown. Council members assured Martin that they would avoid making any statements that might undermine his efforts to deal with the problem. Martin appreciated those personal assurances; he was especially pleased that council members made them not in private conversations with him but in the presence of one another.

The case

Martin, Bristol, and Police Chief Carl Angelo met to develop a response to the work slowdown notification. The initial result of the meeting was a memorandum to participating officers that informed them of the difficulties involved in attempting to meet their demands at that point in the fiscal year, cautioned them about the harmful effects that a job action could have on public confidence and cooperation, and ordered them to resume full police activities. Furthermore, the memorandum advised the officers that continuation of the job action might lead the city to cancel the police department's participation in an upcoming in-service training session, thereby jeopardizing the officers' ability to meet the criteria for supplemental pay from the state. Police officers were irritated by the potential loss of supplemental pay but were not persuaded to abandon the slowdown.

In an effort to counteract the adverse effects of the work slowdown, Angelo began assigning officers to high-visibility locations that had been the sites of major accidents. Angelo's intent was to address traffic safety concerns and to compensate for the officers' refusal to take any initiative in traffic patrol. Thus, even officers participating in the slowdown could not help but be perceived by the public as part of the police presence in the community.

On September 12, the city council and city management received another blow. Only four days after the police officers had announced their work slowdown, forty-two members of Cedar Valley's fifty-one-member fire department issued a statement that they were joining the police officers in the slowdown. Unlike the police job action, in which the participants were virtually all non-supervisory officers, the fire department job action included several ranking officers.

Dealing with employee associations

State law did not regulate labor-management relations in Cedar Valley or in other local governments in the state; the law did not even require that municipal

employee unions be recognized. In that environment, Cedar Valley officials staunchly resisted the unionlike tactics of the police and fire groups, groups that officials regarded as merely employee "associations," even though one was affiliated with the Fraternal Order of Police and the other with the International Association of Fire Fighters.

Martin offered to meet with groups of three aggrieved employees at a time but resisted any action that might give the appearance of bargaining with the two or three persons who had emerged as "union" spokespersons. Officer Bob Jacksboro, president of the police association, had assumed that mantle on the police side. The ranking officer in the firefighters' association, Captain Bowie Camp, was its nominal spokesman, but Captain Hal Rockwood was more outspoken and appeared to be that group's driving force. Martin adamantly refused to strengthen their roles as leaders by meeting separately with Jacksboro, Camp, or Rockwood.

On September 14, Jacksboro notified Martin and the city council that individual officers were rejecting Martin's offer to meet with them in small groups rather than with their representatives, and that the police officers and firefighters participating in the job action had voted to merge and pursue their interests as one group. Four days later, the combined group staged a three-block march to city hall and pressed its demands at a meeting of the city council.

In response to the demands, Martin summarized city management's position. First, the salaries of city employees would be given top priority during budget considerations for the next fiscal year; public safety employees, however, would be considered in the context of the entire city workforce. Second, none of the grievances would be addressed as long as the work slowdown continued. Third, the city would not proceed on a course that would, in effect, recognize employee labor unions. The city council formally endorsed Martin's position.

By September 26, police and fire employees had begun to picket the mayor's place of employment as an intended prelude to the picketing of all city council members. However, informal talks between city staff and attorneys representing the two employee groups headed off the second-phase picketing. By September 29, city staff had calculated the projected costs of implementing the group's demands. Those calculations were distributed to aggrieved public safety employees along with an invitation to meet with Martin—not in groups of three, as had been previously offered and rejected, but in entire work shifts. Jacksboro, still hoping to represent the police officers in negotiations with Martin, announced that shiftwide meetings were no more acceptable than meetings with three officers at a time.

Crisis

Police and fire employees aggressively pressed their case in the community and in the local media. Statements of support increased for public servants who were willing to risk their lives for the community; commercial marquee began to urge support for local police officers and firefighters; radio and newspaper coverage and commentary on the subject seemed more and more prominent. Meanwhile, city management had begun to explore options for providing public safety services, including contracting out the fire protection function.

By the end of September, Martin and his staff had grown impatient with the stalemate and with the employees' continued defiance of orders to resume full duties. On October 5, exactly four weeks after police officers had begun the slowdown, participating police officers and firefighters were confronted face to face and ordered to resume full duties. This order was stronger than the order Martin had given the police officers several weeks earlier. This time the participants were told that unless they declared their intention to comply, they

would be suspended without pay pending termination for insubordination and neglect of duty, as specified by the city's personnel ordinance.

Martin selected October 5 for the confrontation, not only because it marked the end of the fourth week of the stalemate but also because both Officer Jacksboro and Captain Rockwood were on duty that day. Martin and his staff hoped that, caught off guard, Jacksboro and Rockwood would either discontinue their participation in the slowdown or make a mistake that would undermine the job action. Both, however, held firm.

None of the aggrieved police officers and only three of the aggrieved fire department employees on duty that day decided against continuing. The others were suspended.

Word of the afternoon's events spread rapidly, and city management made final preparations to deal with a very volatile situation. Police Chief Angelo immediately instituted twelve-hour shifts for the remaining police force, which consisted primarily of supervisory employees. Fire Chief Joe Caro consolidated forces at one of the city's three fire stations, relying on a handful of veteran fire officers and firefighters supplemented by employees from other departments who could be persuaded to help.

Picket lines composed of police and fire personnel and members of their families formed late that afternoon. As the evening wore on, emotions ran high. The understaffed fire company was inundated by a rash of false alarms. In the early morning hours of October 6, three fires broke out, all of them later attributed to arson; two homes under construction and a former elementary school serving as a day care center were destroyed. The city's contingency plans had proven sufficient for police services and probably would have been adequate for normal fire responses. However, the rash of false alarms and the triple arson overwhelmed the skeleton firefighting force. Although no arrests were ever made in connection with the arsons, public support for the job action seemed to diminish after the evening's events.

When the next morning dawned, Martin and his staff faced the aftermath of a night that had surpassed everyone's worst-case scenario. All were sickened by the thought that this might be only the first night of several like it. Efforts to prepare for a recurrence were only partially successful. A local industry that operated its own firefighting force agreed to place a pumper and crew at the city's main fire station, and the city manager of a neighboring community assured Martin that he would send a pumper to Cedar Valley on a moment's notice. State officials, however, refused to make the National Guard available, stating simply that the guard could not step in unless fire losses were greater than they had been the first night.

Informal discussions between management staff and attorneys for the employee groups continued throughout the day. By late afternoon, a return-to-work agreement had been reached that reinstated all suspended employees, ended the work slowdown, and instituted a forty-day cooling-off period.

During the cooling-off period, city staff attempted to respond positively to some of the less costly components of the employees' demands. For example, police officers were given access to the weight room of the local high school and a discount on uniform cleaning. Most of management's attention, however, focused on ways to solve the much greater problems of disgruntled employees and limited resources to provide vital public services. From the employees' perspective, the forty-day period passed with little visible progress.

Seeking solutions

Almost from the moment the demands had first been received, city management had been exploring service delivery alternatives. Those efforts continued during the cooling-off period. For two reasons, attention was focused mostly on fire

service options. First, because the fire service was a labor-intensive function characterized by extensive idle time, major changes in service delivery patterns would be more manageable and more likely to achieve substantial benefits there than in the police function, where officers presumably spent their time between calls patrolling the community. Second, and perhaps more important, both Director of Administration Bristol and Fire Chief Caro were familiar with the reputation of Smokeater Systems, Inc. (SSI), a private company renowned for providing efficient fire services in a widely publicized contract arrangement in a neighboring state. If the firefighters persisted with their work slowdown, perhaps SSI could provide fire protection to Cedar Valley at a cost equal to or less than the current cost of service provision.

SSI was contacted, and by mid-October the city had a rough proposal in hand that promised to save \$135,000 during the first year of operation. By early November that proposal had been refined: it contained a variety of service-level options that provided first-year savings ranging from \$135,000 to \$280,000. When local officials checked references, SSI got high marks for service quality and cost-effectiveness.

Knowledge of the city's contact with SSI became widespread by mid-November despite city officials' efforts to remain low-key. Local firefighters were soon writing letters to the city council and the local newspaper editor suggesting that contract service would be unreliable, questioning SSI's willingness and ability to provide fire inspection and allied services, and raising the specter of increasing fire insurance premiums should SSI be hired. One writer asked, "Is the proposal to contract for fire services only another tactic to intimidate city employees?"

By November 20, all doubts about the seriousness of city management's interest in contracting with SSI had vanished. A memorandum from Martin invited the mayor and city council members to view a videotape of a nationally aired television segment on SSI's operation. A resolution authorizing a contract with SSI had been prepared by the city staff, although it was not considered at the council meeting that evening.

By mid-December most city council members had informed Martin, either directly or indirectly, that they were impressed by SSI's operation but that they preferred to make changes in the current operation, if possible, rather than scrap it and turn the fire service over to a contractor. Martin therefore instructed Bristol to continue his analysis of alternative methods of fire service delivery but to direct his attention particularly to the possibility of adapting various characteristics of the SSI operation to local use.

Different perceptions

By January the volatile situation of autumn had settled into an atmosphere of general mistrust. Firefighters and police officers viewed departmental administrators and the city's management staff suspiciously, privately and publicly attributing sinister motives to various actions. For example, they regarded management's unwillingness to negotiate with labor spokespersons and its willingness to consider contracting out fire services not as legitimate management strategies but as affronts to dedicated public safety employees, threats to their employment security, gestures of "bad faith" in the efforts to resolve the crisis, and reflections of management's indifference to the perspective of front-line police officers and firefighters.

Management, on the other hand, saw little to be gained by recognizing a bargaining unit when not required to do so by state law. Martin, Bristol, and many key management officials had little regard for the notion that a major purpose of local government is to provide jobs. They believed instead that the purpose of local government is to provide services and that pay and working

conditions are productivity issues rather than humanitarian or social concerns. Accordingly, they viewed the consideration of contractual fire services as an entirely legitimate and even prudent management strategy.

These managers also resented the insinuations by police officers and firefighters that Martin and his colleagues cared little for the security of the community. They were angered by efforts to encourage residents and businesspersons to apply pressure on the city council and city management, and by the inflammatory pronouncements and public appearances that delighted the local media. Particularly irritating were letters to the editor of the local newspaper that purported to speak for “the public” but in fact were written by relatives of police officers and firefighters.

Moreover, city management resented deeply what it believed to be desertion of managerial ranks and responsibilities by fire department middle management. It was true that city management had done little to create a strong sense of “management team” camaraderie with fire captains before or after the job action, but management was nevertheless offended, not by supervisors’ sympathy for the firefighters’ position (which some of the captains who had stayed on the job also probably felt) but by the overt leadership that some captains exercised in the job action.

Although contradictory, the views of both labor and management had some justification.

The decision problem

Against this backdrop, city management attempted to address what it perceived to be four fundamental problems:

1. Although the desired salary increase had been presented as an ultimatum rather than as a request and had come at a point during the fiscal year when the budget and the tax rate had already been established, Martin agreed fundamentally that salaries of public safety employees should be increased. His primary motivation, however, was to maintain a competitive compensation structure for city employees. The problem, therefore, was not a disagreement over the need for salary adjustments but rather the difficulty of developing a credible strategy to placate, or at least neutralize, disgruntled employees until the next budget cycle.
2. Because city resources were tight, the city council and the citizenry appeared to have little patience with suggestions that property taxes be raised to fund higher salaries. Substantial revenues, therefore, would have to be secured through money-saving changes in current operations.
3. Although Martin never sought a vote from the full city council, conversations between management and individual council members revealed little support for privatization of the fire service despite substantial projected savings. As long as viable in-house options existed, council members appeared to prefer that route—a preference that effectively restricted the alternatives available to management.
4. Labor-management relations within the police and fire departments were severely strained. Each side viewed the other’s comments and proposals cynically.

At Martin’s request, in late January Bristol presented a staff analysis that explored five options.

The first option, continuation of the current operating mode, offered no solution to any of the existing problems. However, if the city could manage the existing situation until the next budget, it might be able to offer some concessions to the aggrieved employees and perhaps begin the process of rebuilding relationships with them. Furthermore, this option would require no long-term

changes and therefore could appeal to anyone who thought the current problems might actually be short term in nature.

The second option, simply cutting the number of fire department employees, would produce cost savings that could be used to make salary and other concessions. It would, however, also result inevitably in reductions in service-level and operating effectiveness. Layoffs or even reductions through attrition would be bitterly opposed, so this option did not even promise improved relations with the police and fire employees.

The third option was the establishment of a public safety officer (PSO) program, in which police officers and firefighters would be cross-trained and deployed on patrol when not otherwise engaged in police or fire activities. Cross-trained public safety officers had been used successfully in some other cities despite chronic opposition from firefighters' associations. Locally, such a plan might produce some cost savings, but it had little administrative appeal to the police chief, the fire chief, or the city management team. Those officials had just experienced the difficulty of dealing with coordinated actions by police officers and firefighters and thus had little inclination to unite the two groups structurally.

The fourth option, contracting out fire protection, was the preference of the management team, but the council would almost certainly reject it. At a minimum, the management team would have to exert substantial effort to sell the council on this option, despite the substantial projected cost savings.

The fifth option was departmental reorganization and the adoption of a "fire specialist" program. As outlined by Bristol, this option would reduce fire department employment by 20 percent, from fifty-one to forty-one full-time employees, and establish new deployment patterns. Under this program, station-based firefighters responding to a structural alarm would be supplemented at the scene by other city employees who had been trained as firefighters and equipped on assigned standby days with a fire department pickup, turnout gear, a two-way radio, and a pager. If the alarm occurred during working hours, the fire specialists from other city departments who were on standby that day would leave their jobs and respond immediately. If the alarm occurred after working hours or on the weekend, they would respond from wherever they happened to be within their assigned response zones. The net effect of the plan was an increase in response strength—from seven or eight firefighters per standard structural alarm under the old system to nine under the new system—despite a reduction in the number of station-based firefighters.

Unlike the rotational pattern used by SSI that required standby personnel to be on call several days in succession, the rotational pattern for standby assignments in Cedar Valley would be one day on and the next two days off. Thus, local firefighters would be able to serve as fire specialists on "off" days in their own work cycle of twenty-four hours on and forty-eight hours off. This arrangement would serve at least three strategic purposes. First and most important, it would tap the most highly trained pool for fire specialist expertise. Second, it would offer firefighters a source of supplemental income that would make use of their skills and impose minimal disruption on normal activities. Third, participation in the fire specialist program by full-time firefighters would do much to blunt criticism of the program, increase the program's chances for long-term survival, and reduce the tendency to view employees from other departments as "scabs" who were seizing jobs from fire department employees. If employees had to be recruited from other departments, it would be because off-duty firefighters had declined to serve as front-line fire specialists.

When fully implemented, the restructured fire service was expected to produce annual savings exceeding \$135,000. For two reasons, however, initial savings were expected to be considerably lower. First, city management rec-

ommended using normal attrition rather than layoffs to effect employment reductions; in addition, management recommended against salary reductions, even in cases where cutbacks resulted in downward reclassifications of workers. Second, city management recommended that a substantial portion of the first three years' savings be devoted to a smoke detector rebate program to improve fire safety in existing dwellings.

In February, Martin recommended the fifth option—departmental reorganization and adoption of the fire specialist program—to the city council. He and his staff perceived the immediate reaction from the community to be either positive or, at worst, noncommittal, except among firefighters and their friends, their relatives, and others who had been their principal supporters during the autumn work slowdown.

Management staff held meetings with firefighters to describe the plan in detail, discuss its ramifications, and receive suggestions for improvement. The atmosphere of the sessions was tense; most questions from firefighters were designed less to elicit information than to express opinions and challenge the management plan. The response of the firefighters was decidedly negative. A press release in late February stated the firefighters' position:

The Cedar Valley Firefighters Association wants the public to know the truth about the city administration's so-called "reorganization plan" and some of the dangers this plan poses to our community.

The number of professional firefighters on duty during an average shift would be reduced by 20 percent and supplemented by an unspecified number of "civilian specialists" who are not professional firefighters. They have not been trained in the skills and sciences necessary for a successful firefighting operation, such as hydraulics, fire chemistry, rescue and first aid, ventilation, physics, building construction, arson investigation, and fire prevention and inspection.

Members of a fire company *must* train together as a team and work together as a team; they must stay abreast of new techniques and equipment to help them save lives and preserve property. Under our present system, the Cedar Valley Fire Department has an enviable record of success, proving that adequate manpower, responding together as a team, prevents loss. *The saving of lives and the preservation of property are difficult to evaluate in dollars and cents.*

The city administration claims that the proposed plan will cost the taxpayers less than our present, successful system. Actually, implementation of the new plan alone, including the purchase and maintenance of four radio-equipped pickup trucks and between twelve and eighteen pagers, along with the payment of civilian salaries, will negate most, if not all, of the savings.

The Cedar Valley Firefighters Association urges all citizens to read our newspaper ads carefully and to call city council and express concern over this hasty action.

The battle lines of the previous fall were still clearly in place as the focus of attention shifted to the deliberations of the city council. "If they're going to fight me every step of the way," thought Martin, "maybe I should have pushed harder for option 4, the contractual arrangement. Maybe I should revert to that option even now."

Discussion questions

1. Early in the crisis, Martin expressed strong disapproval but nevertheless tolerated a work slowdown for four weeks before forcing action to break the impasse. Was he too patient or too impatient? What action could he have taken earlier that might have produced more favorable results?
2. Was Martin wise in refusing to treat the police and fire employee associations as negotiating units? Why or why not?
3. Did Martin proceed properly? Should he have given in a little more and complied with additional demands? Should he have "battered down the hatches" and attempted to ride out the storm? Should he have focused

less on substantive issues and more on smoothing out relationships? Or was he correct in risking further antagonism by considering major changes in the status quo that would be likely to face stiff opposition from firefighters or police officers? In essence, should he have retreated a bit, dug in, sought a truce, or mounted a charge? Explain your answer.

4. Sometimes the most effective political leadership is achieved by keeping a low profile and avoiding confrontation while waiting for a solution to make itself obvious. Is it possible that Martin, as a new city manager, felt that he had to prove his leadership ability by taking direct action? What would you have advised him to do? If he had chosen to keep a low profile, what, if anything, should he have done to speed the emergence of a solution?
5. Are there other options that should have been added to Martin's list? If so, what are they? Evaluate them.
6. Martin's original preference was option 4, contractual fire protection. If no other option appears as promising, and the firefighters are opposed even to option 5, should Martin return to his first choice and attempt to sell it to the council? If so, how should he proceed? If not, why not?
7. Are there modifications that could be made in either option 4 or option 5 that might make it more acceptable to the firefighters? If so, what are they? What costs might they entail?
8. If you were Martin, how would you proceed? Why?
9. Realistically, what is the best outcome that Martin can hope to achieve?

List of contributors

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