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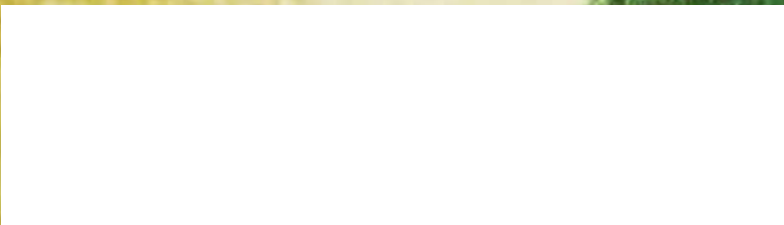
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**IT'S  
MEDICINE  
NOW**

# MARIJUANA

**AT CITY HALL**







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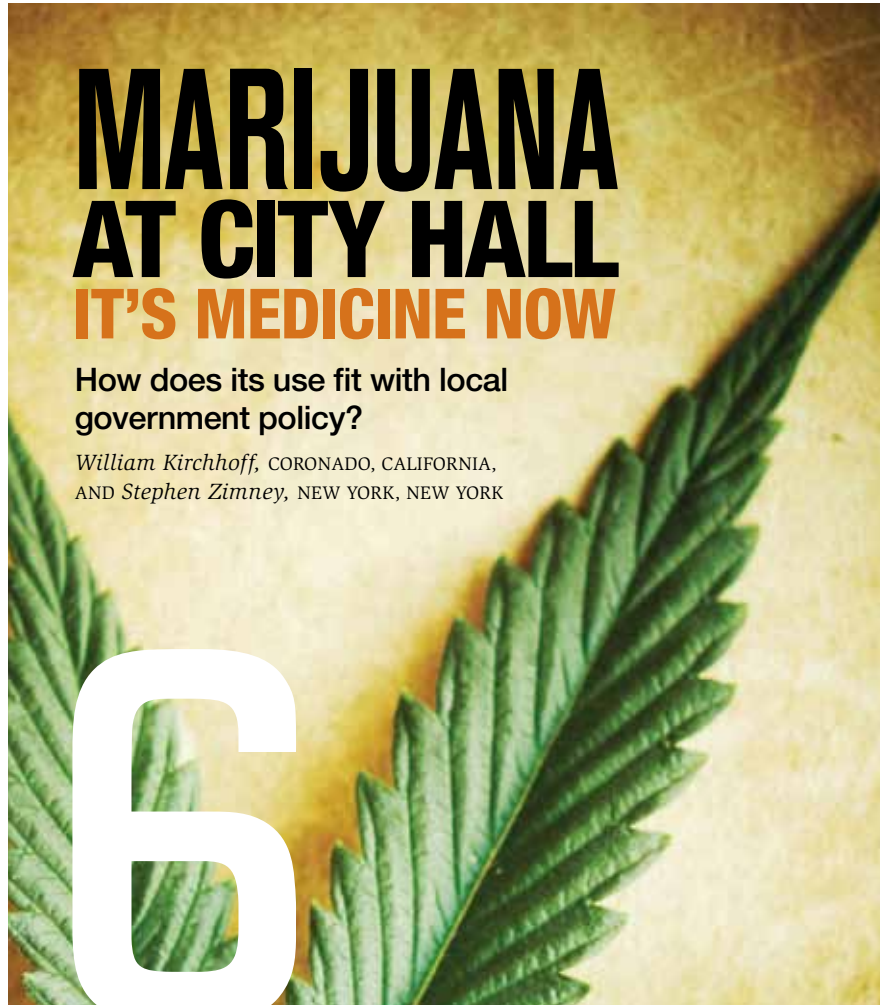
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Statistic Source: The 2012 EBRI/MGA Retirement Confidence Survey

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at [icma.org/pm](http://icma.org/pm) November 27, 2013.



BY MARTHA PEREGO

# GIFTS, GRATUITIES, AND GIVEAWAYS

How to set reasonable standards



Coming off the most recent economic decline, the issue of gifts to public sector employees should have vanished off the landscape much like the woolly mammoth did eons ago. Alas, that's not our current reality. Even in this period of limited resources, questionable gifts, gratuities, and giveaways to public sector officials continue to raise eyebrows.

Consider the case of the department director whose local government paid for him to attend a national conference and trade show this past summer. The staff member dropped his business card in the conference-sponsored exhibit hall raffle. As luck would have it, he won the random drawing. His prize? A brand new car.

When news of his good fortune reached city hall, the questions on city employees' minds were: Does he get to keep it? Or does it belong to the city? What does the city policy say?

If the case sounds familiar, that is because it has happened before. To be fair, most associations offer less enticing items to encourage attendance. But the practice of accepting what

appears to be an innocent gift can be a potential source of embarrassment for an organization.

## Act Now

Gift giving and holidays go together. Now is a good time for leaders to review the organization's policies for accepting gifts, gratuities, and giveaways from appreciative residents, local businesses, associations, and vendors.

The best policies and practices support the organization's values. In addition, they should help staff members exercise good judgment, communicate clear expectations, be applied and enforced fairly across the organization, and work to build the public's trust in the staff and organization.

Depending on the organization's culture, the approach may range from giving employees wide discretion to setting a strict standard.

Regardless of the approach, it is always important to encourage individuals to think about appearances and how their conduct contributes to an ethical culture. Establishing a set of rules without actually explaining how

# PM

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**Robert O'Neill, Jr.**

DIRECTOR OF PUBLISHING

**Ann Mahoney**

EDITOR

**Beth Payne**

DESIGN

**Thor Design Studio**

[www.thor-studio.com](http://www.thor-studio.com)

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**EDITORIAL INFORMATION**

202/962-3619

[bpayne@icma.org](mailto:bpayne@icma.org)

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Tim McCormack

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they contribute to good public service values won't be effective in achieving the desired conduct.

### ICMA's Standard

The ICMA Code of Ethics commits professionals to seek no favor and offers this guidance on gifts:

"Members should not directly or indirectly solicit any gift or accept or receive any gift—whether it be money, services, loan, travel, entertainment, hospitality, promise, or any other form—under the following circumstances: (1) it could be reasonably inferred or expected that the gift was intended to influence them in the performance of their official duties; or (2) the gift was intended to serve as a reward for any official action on their part. It is important that the prohibition of unsolicited gifts be limited to circumstances related to improper influence. In de minimis situations such as meal checks, some modest maximum dollar value should be determined by the member as a guideline. The guideline is not intended to isolate members from normal social practices where gifts among friends, associates, and relatives are appropriate for certain occasions."

### Tips on Creating Effective Guidelines

**Set reasonable standards.** If the policy sets a value limit on gifts, make sure that it passes the smell test for your community. Is the gift small enough that a reasonable person would assume it was not a reward or intended to gain favor?

**Don't assume disclosure is sufficient to deter public distrust.** Some organizations adopt a much higher threshold on what is okay to accept, balanced with a requirement that the gift be publicly disclosed. But is disclosure that a staff member received a gift sufficient enough to ensure that the public has confidence that the outcome was not influenced by the gift?

**Help people make good decisions.** If the policy provides the employee with broad discretion, then create a framework for good decision making. Give employees some questions to consider about the impact on their reputation or work if they were to accept a gift. Even offer a checklist of gifts that may or may not be okay to accept.

**Apply standards appropriate to an employee's position.** By virtue of their role and responsibility, some employees must be held to a higher standard. Mountain View, California, prohibits procurement staff from accepting any gifts from vendors either currently conducting business with the city or seeking to do so.

Decatur, Georgia, has a similar approach noting that while no employee should solicit or accept any gift or gratuity from anyone who has official business with the city, "it is particularly important that managerial employees, contracting officers, inspectors, and enforcement officers guard against any relationship which might be construed as evidence of favoritism, coercion, unfair advantage, or collusion."

**Lead by example.** You work hard to establish credibility and trust with the public and staff by holding yourself accountable. You pay attention to appearances. If accepting a gift or gratuity creates the appearance of impropriety or sends the wrong message, your credibility is at risk.

Often the test of whether you should accept a gift is simple. Ask yourself, "Do I really, really, really want this?" If the answer is yes, you should decline it because your objectivity is already impaired. Sometimes the best answer is simply "no." **PM**



**MARTHA PEREGO**  
Ethics Director, ICMA  
Washington, D.C.  
mperego@icma.org

# HOW DO YOU BRIDGE THE GAP BETWEEN YOURSELF AND AN ELECTED OFFICIAL WHO HAS A DIFFERENT VISION THAN YOU DO?



**SERGIO GONZALEZ**

City Manager  
South Pasadena, California  
sgonzalez@southpasadena  
ca.gov

I would first make sure that I have a good understanding of what my vision is and that of the elected official to see just how far apart we really are. To do so, I would engage the elected official in an honest and open dialogue to identify areas where there is some consensus and see how we can build upon these commonalities.

It would also be important to have a candid discussion about the areas where our visions differ. I believe that my job as a city manager is to not only implement the policies set by the city council but also to work toward achieving results based on a collective vision of the entire elected body.



**ROBERT LEE, ICMA-CM**

Town Manager  
Plainville, Connecticut  
relee@plainville-ct.gov

First, it is important for a manager to understand the rationale behind the vision of the elected official. I would sit down with the official and discuss how the personal vision was developed. During the discussion, I would share my vision and identify the areas in which we agree.

Once you understand the official's perspective, you can then re-evaluate your vision. Is what you envisioned "yesterday" still appropriate today and tomorrow? Circumstances change and when they do the goals and objectives may have to be adjusted to meet those changing conditions.

Finally you should not overreact to the differing vision of one elected official. In communities, the direction that we travel is like an ocean liner. It takes the effort of many to change the direction or the momentum. Be patient. Time has a way of straightening everything out.



**MARK CHRISTENSEN, ICMA-CM**

City Manager  
Saratoga Springs, Utah  
markc@saratogasprings  
city.com

It's essential to begin building a bridge with the end in mind. This requires identifying the vision of the legislative body and should always be built upon a relationship of trust.

I believe there is always a common goal that can be recognized despite strong disagreement about how to accomplish the goal. The art of consensus building can, and probably should, require productive conflict. If managed appropriately, conflict can strengthen the relationship between your elected officials and your organization.

The goal is to harness the passion surrounding the differences and use that energy to forge a stronger commitment to the process and outcome of the organization. Stand firm on ethical, legal, and best-practice issues but don't take an intractable position on the petty stuff.



**LISA JOHNSON, ICMA-CM CANDIDATE**

County Administrator  
Franklin County, Kansas  
ljohnson@franklincoks.org

A powerful and effective vision should be shared by the people responsible for making it happen.

Rather than focus on the differences, I try to bridge the gap by focusing on the commonalities and things we agree upon. It is easy when there isn't a shared vision to focus on short-term differences and lose sight of the fact that a true vision is a long-term goal and objective for your organization.

The key in bridging the gap and moving forward is finding and recognizing the areas where I can help to build consensus and setting aside any personal differences to move forward with the vision of the governing body.

At the end of the day, regardless of our respective visions and how they are ultimately accomplished, I think we all want healthy, economically vital, and sustainable communities for our families and future generations. **PM**





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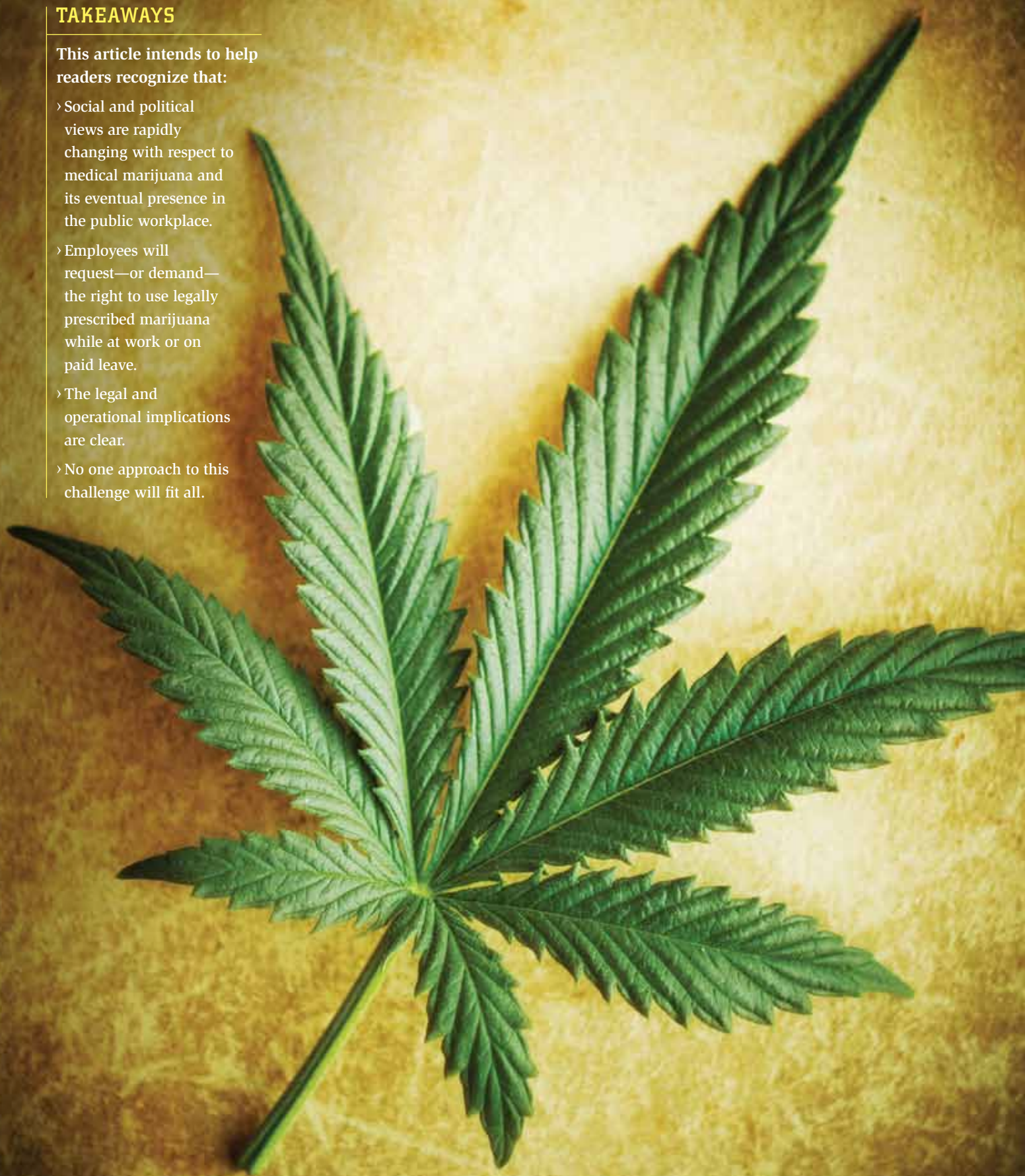
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## TAKEAWAYS

This article intends to help readers recognize that:

- › Social and political views are rapidly changing with respect to medical marijuana and its eventual presence in the public workplace.
- › Employees will request—or demand—the right to use legally prescribed marijuana while at work or on paid leave.
- › The legal and operational implications are clear.
- › No one approach to this challenge will fit all.





By William Kirchhoff and Stephen Zimney

**A proactive approach will enable managers to begin dealing with this sea change in workplace dynamics**

# MARIJUANA

## AT CITY HALL

**The legalization of marijuana has stirred hot debate on both sides of the issue.** According to ProCon.org, some 20 states and the District of Columbia have currently made medical marijuana legal, and there is every indication that more will follow. Until just recently, local governments could adopt a position on its use at the workplace that held—as long as the federal government considered marijuana illegal—they need not spend time or energy trying to proactively deal with the issue. There was little to do except to maintain a zero-tolerance stand. ■

**T**he game, however, has now changed. No longer will public managers be able to use previously existing case law to delay or deflect facing the medical marijuana issues head-on.

With Attorney General Eric Holder's August 2013 announcement that the federal government will no longer prosecute or incarcerate users, we coauthors submit this prediction: In those states where the use of medical marijuana is legal, managers and all government officials will be confronted with the pressing reality that employees will want, and in many cases demand, that they be allowed to treat certain medical conditions with medical marijuana, both on and off the job. It's also likely that other states will follow, given current societal trends.

The purpose of this article is twofold. First, it will hopefully generate additional study and debate, since across-the-board conclusions are hard to draw. Be it the differences in political and cultural realities or the array of actions taken by localities in a given state against which others will be compared, we suspect that each administration will face the need to customize its thinking regarding marijuana adaptation protocols.

The second purpose is to provide local government managers with the framework that will allow them to begin dealing with this complex issue. In no way does this article advocate for or against the use of medical marijuana. That discussion is left to physicians and scientists.

But the article does postulate that managers will have to wrestle with the practicalities, friction points, and dilemmas associated with the use of medical marijuana in the workplace. It also offers suggestions on how to practically and strategically address medical marijuana at city hall.

### **Profound Culture Swing**

According to a 2013 Brookings Institute study, *The New Politics of Marijuana Legalization: Why Public Opinion Is*

*Changing*, public opinion has shifted dramatically toward support for the legalization of marijuana in less than a decade. Polls consistently show that substantially more than 50 percent of Americans support legalized medical marijuana. The ascendancy of the public's acceptance of it is nothing short of astonishing.

This year Colorado and Washington became the first states to legalize the recreational use of marijuana from among the 20-plus states that had already legalized marijuana for medical use when this copy was written. It is also noteworthy that the adoption of the resolution "In Support of States Setting Their Own Marijuana Policies Without Federal Interference" by the U.S. Conference of Mayors this year advises the federal government to back off and leave it up to the states and local governments as to how to regulate and manage marijuana.

### **A Proactive Approach**

The speed of this emergent trend clearly warns us that, beyond the need to institute well-thought-out policies and practices to achieve effective management and accountability, pressure will also mount on city hall to develop new standards with a new mindset and a different business model—one that is much more adaptable to this 21st century sea change in workplace dynamics.

Tiptoeing away from medical marijuana at city hall is a mistake. Resisting on the basis of knee-jerk opinion will surely backfire. Smart managers will proactively address this change by seeking input and new ideas from employees, lawyers, physicians, insurance industry members, and others (see boxed copy Get Informed).

Failure to get ahead of the problem will result in unnecessary legal, operational, and morale costs for public entities and the taxpayers they serve. It appears that only a handful of forward-leaning city managers, such as Steve Pinkerton, Davis, California, and Betsy Fretwell, Las Vegas, Nevada, are using task forces and focus groups to address

the long-term ramifications of medical marijuana in the public workplace.

To put it simply, what do we do now that we know employees have a right to use legally prescribed medical marijuana?

### **Choices With Consequences**

What seems to be a practical and appropriate first step is to think through all of the obvious day-to-day impacts that legalized medical marijuana might bring with it, including insurance and risk management issues, different testing protocols, training requirements, and other challenges.

But our research and work with focus groups tells us that there is a spiderweb cause-and-effect element to this, which can exponentially increase the frequency and consequences of decision making. Consider one example.

*Blumberg Businessweek* has reported that K-9 experts in Colorado and Washington worry that a dog trained to sniff out drugs cannot differentiate between marijuana and such other drugs as methamphetamine. And it is difficult and costly to retrain them otherwise. That means, according to the government lawyers, patrolling with K-9s currently used to sniff out drugs runs the risk of civil rights violations and lawsuits. So how do the local government manager, police chief, and K-9 supervisor handle this?

Do you simply retire and replace the animals like obsolete equipment at great cost to the operations of the police department, including the emotional reaction from the K-9 officers who view their animals as their partners? How the handlers react and what their labor organization does will require some deep thinking and controversial decision making.

Mishandled, the financial, emotional, and operational well-being of local governments currently using K-9s for marijuana detection will be stressed if the disposition of the animals is not handled satisfactorily to all interests.

This is just one of many "choices with consequences" that the legalization of marijuana for medical purposes will drop on the manager's decision-making plate.



**The tension between those who believe that employees have an ethical imperative as well as the legal right to treat a legitimate medical problem with marijuana, and those who oppose such a viewpoint for any one of the many valid concerns associated with the use of legal medical marijuana, is certain to complicate matters.**

While these unintended consequences will eventually be sorted out, there is a more complicated and strategic issue: How do we change the organizational culture surrounding medical marijuana?

To expect the organization as a whole to accept new policies that require some managers to suspend or eliminate deeply ingrained feelings, learning experiences, and biases without recognizing that such a change requires careful navigation between the intellectual versus the emotional side of any type of change activity is professionally wrong.

A manager can either adopt a reactive wait-and-see approach or move the organization into a proactive posture. If the wait-and-see reaction is subscribed to, then we submit that the results will be similar to such turtle-like adaptation to social changes we experienced in the past decades regarding sexual harassment, workplace discrimination, and diversity at city hall.

If managers can be open to the new thinking that medical marijuana should be treated no differently than such prescription drugs as Vicodin, Endocet, and Oxycodone, then the toll on the organization can be mitigated.

Agreement with this supposition requires the drafting of policies and the implementation of management procedures that benefit from the multiple viewpoints residing in the communities of healthcare professionals, behavioral researchers, safety experts, and a locality's own employees and union officials.

In the long run, we will need all of their input to help effectively

maintain maximum organizational productivity within the parameters of court decisions, moral concerns, and practical considerations.

### **Strategic Approach: Establish a Framework**

Some fundamental questions and conflicts around moral, ethical, and values-based issues will necessarily be raised and accordingly will demand careful debate. We suspect that this exercise will lead to the inevitable conclusion that culture change is the linchpin dynamic that spells the difference between successful versus unsuccessful adaptation to medical marijuana.

Four stages of activity are required for an effective strategic planning effort. The players need to be interdisciplinary to include senior management personnel from all major functional and departmental entities within the organization.

**Stage 1.** Identify the collective corporate and social values at play within and throughout the organization around the subject of medical marijuana.

1. What is the corporate "world view" around employee relations principles?
2. What are the personal values of key senior management personnel, and how do those views impact organizational orientation around the issue?
3. Where are the disconnects between implicit (often hidden) values and the explicit values imbedded in formal policy statements (that now surface because of this new debate)?
4. Which values are, or potentially will be, in conflict with each other?

## **MEDICAL MARIJUANA POLICY QUESTION CHECKLIST**

Throughout the process of formulating policy, it is helpful to have a set of guidelines to keep policymakers on track. Local governments need to examine the following questions before establishing policies pertaining to medical marijuana management:

- What is the purpose of your medical marijuana management policy?
- Who will be covered?
- What behavior will be prohibited?
- Will employees be required to notify their supervisors of their use of medical marijuana? What will the consequences be if the policy is violated?
- Will there be a reeducation effort and return-to-work provision?
- How will employee rights and confidentiality be protected?
- Who will be responsible for enforcing the policy for compliance?

# PROACTIVE DECISION MAKING

**FOR MANAGERS WHO WANT TO** take a proactive approach, a decision-making tool—the “Medical Marijuana Decision Matrix” (see Figure 1)—will help them sort out the requirements for necessary change as well as identify accompanying dilemmas.

The matrix requires that the centerpiece—the 3-by-3 grid—be filled out, with all of the organization’s job positions distributed across the nine boxes based on the job performance conditions and the performance impairment impact that accordingly attends each job position.

Some position impairment categorizations are clear and simple, with others falling in the grey area. The propriety and common sense, for example, of restricting first responders and dispatchers from using medical marijuana is much clearer than when considering plan reviewer and librarian positions.

Our research and management experience points to the three large categories of employees into which all local job titles (see left side of figure) can be slotted. They are public safety employees, non-safety employees, and direct public contact employees.

Across the top of the grid are the three policy categories that can be applied to each job position. For each, the city can declare medical marijuana as clearly allowable, conditionally allowable, and clearly not allowable.

What makes this task particularly daunting are the interconnecting and often conflicting pressures that can and will emerge within and between four impacting realities that, in our chart, surround the central grid.

**Organization integration** requires that we anticipate and eliminate, to the extent possible, the lack of synergy between the legal implications, human resource policy and practices, and operational protocols.

How, for example, are the differing perspectives and beliefs between legal, human resources, and department directors dealt with? Who decides that an employee is impaired or otherwise—a medical, human resource, or legal specialist?

**Policy dilemmas** will emerge from the introduction of new policy around medical marijuana use and management. Are we calling into question, for example, existing policy that no longer is compatible with our new stand? And, do we create one new policy that is incompatible with other policies that are trying to meet a different set of pressures in our organization’s reality?

What do you do with police resources that were dedicated to the arrest and prosecution of medical marijuana users? Is it best to transfer the positions to other

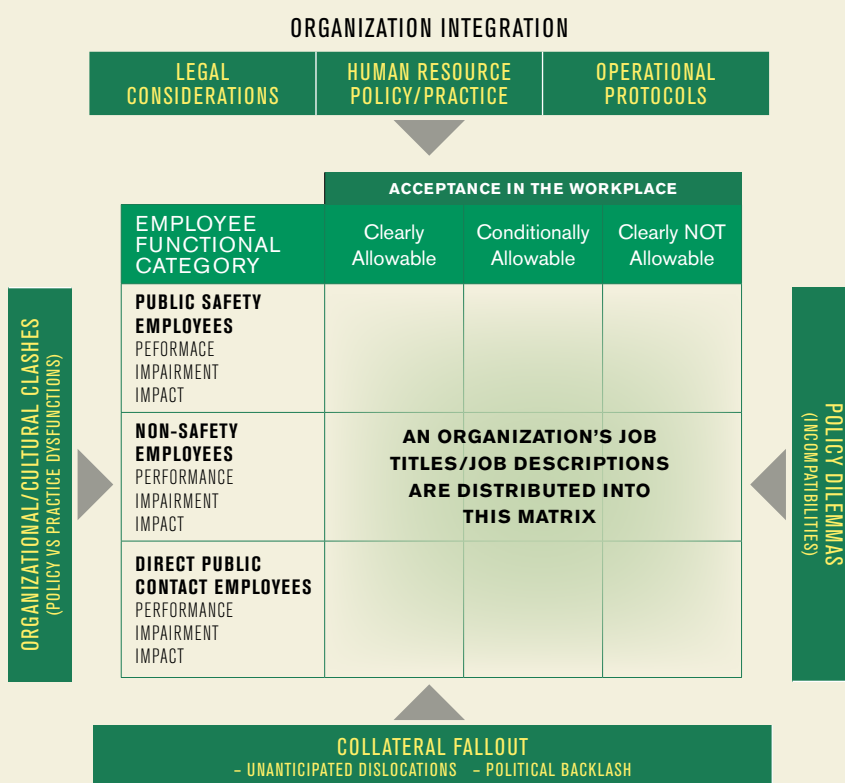
duties or eliminate positions to achieve cost savings?

Will there be a second-chance policy and if so, will it be the same for all employees, including senior management staff? Will certain positions and/or work units be subjected to more frequent and invasive drug testing for medical marijuana than others? Do testing policies for marijuana clash with existing policies for such legal pain medications as Vicodin?

How do we make such policies compatible? Will that effort call many more policies into question, as clear inequities between policies begin to emerge?

**Collateral fallout** that attends our efforts will include unintended dislocations, community backlash resulting in elected official conflicts that politicize policy-making efforts. How does the fire chief, for example, deal with the potential need to reassign first responders to non-field duty when current budgeting has eliminated the needed number of slots that are required to handle the new reality?

**FIGURE 1.** Medical Marijuana Decision Matrix.





## Organizational/culture clashes

will be the most significant and problematic area of the four. In our study, we have heard widely dispersed reactions ranging all the way from “It’s about time this happened” to “This spells the beginning of the end of our society’s strength and sense of responsibility and accountability.”

This range of opinion and bias will exist in the workforce, too. What employees sign-on to in terms of formal policy versus how they actually behave in the workplace will test the best of human resource professionals.

The tension between those who believe that employees have an ethical imperative as well as the legal right to treat a legitimate medical problem with marijuana, and those who oppose such a viewpoint for any one of the many valid concerns associated with the use of legal medical marijuana, is certain to complicate matters.

How are police department attitudes and practices successfully changed to accept that the use of medical marijuana is no longer an act for which one can be prosecuted or incarcerated? How will age differences among the supervisors affect the development of new medical marijuana policies? Is labor to be treated as an equal policy-making partner regarding medical marijuana or should it be business as usual?

These are just a few examples of the complex consequences and dilemmas that will confront managers, many whose career experience and view was heretofore molded for years by the singular principle of zero-tolerance.

Add to this the inevitable core value dilemmas that will emerge from normal labor and management tensions, workforce age differences, moral convictions, laws, professional standards, and science versus speculation that will be included in the problematic mix of influencers, and one can easily see the Rubik’s-cube nature of policy-making efforts.

**Stage 2.** Identify the juxtaposed realities within the organization that are/will come in conflict vis-à-vis the introduction of medical marijuana.

1. Safety concerns versus equitable personnel deployment.
2. Legal exposure versus relaxed HR policy formation.
3. Labor relations versus political imperatives.
4. External PR (*image*) impacts versus internal adaptation realities.

**Stage 3.** Convene functional areas separately in groups (adding staff as needed) to formulate an integration template for their area of responsibility in the organization, taking the output of Stages 1 and 2 as the starting-point guidelines for their efforts.

Necessarily, different functional areas and departments will have different priorities and trade-offs. Each group should be encouraged to develop its scenarios without consideration of the rest of the organization, so as to get to the bottom-line implementation paradigm for their functional area.

**Stage 4.** Reconvene the larger organization planning group, with senior representatives of each functional area returning with the output(s) from their group’s individual efforts. The goal in this stage is to complete

an organization-wide integration of all plans, ironing out the conflicts and inconsistencies that will undoubtedly surface.

Only with thorough and careful efforts can the unintended consequences of “policies in conflict” be minimized and hopefully avoided once the integration and its policies “go live.”

It goes without saying that legalization of medical marijuana places many a quandary at the doorstep of city hall. This article is intended to help managers begin addressing all the complicated policy-making issues that will accompany this sea change in workplace dynamics. **PM**



**WILLIAM KIRCHHOFF** is a municipal adviser, Coronado, California, who served as a city manager for 30 years with five communities (billkirchhoff@yahoo.com). **STEPHEN ZIMNEY** is president, Zimney Associates, New York, New York (szimney@zimney.com).

**Editor’s Note:** The authors want to thank the many professionals who reviewed drafts of this article and provided input and ideas. Among them were the general counsel to a large public safety union; retired and active city managers; labor officials; police and fire chiefs; human resource directors; municipal attorneys; plaintiff’s attorneys; physicians; CEOs of development and technology companies; and public employees who shared how easy it is to use medical marijuana in the workplace.

## GET INFORMED

These additional resources can help public administrators learn more about the use of marijuana for medical purposes:

- *Marijuana Myth Facts: A Review of the Scientific Evidence* by Lynn Zimmer, Ph.D., and John Morgan, M.D.
- *Smoke Signals: A Social History – Medical, Recreational, and Scientific* by Martin Lee.
- *The Pot Book – A Complete Guide to Cannabis and Its Role in Medicine, Politics, Science, and Culture*, edited by Julie Holland, M.D.
- *CNN 2013 documentary “Weed,”* Dr. Sanjay Gupta reports on the attitudinal recalibration taking place among a growing number of medical professionals (<http://www.youtube.com/watch?v=tShnVEmdS2o>).

# WOWS & WOES OF PUBLIC-PRIVATE PARTNERSHIPS

## FACTORS TO KEEP IN MIND WHEN PURSUING THESE RELATIONSHIPS

By Rachel Burstein and Edward Shikada

**Like many agencies, San Jose, California, has been working at public-private partnerships for many years. Some have been tremendously successful, including volunteers turning around the city's Municipal Rose Garden from nearly losing accreditation with a national rose society to garnering a designation as "America's Best."**

In 1928, the city council set aside 5.5 acres of a former prune orchard for a formal rose garden. Construction continued through the depression era, with the news reporting in 1932 that "a crew of 32 men has been at work preparing beds at the rose gardens. Funds to pay these men, who have been unemployed and are heads of families residing in this city, were raised by city employees donating a percentage of their salaries."

The garden opened to great fanfare and became a destination for generations, including countless weddings and high school graduations. >>

### TAKEAWAYS

**Public-private partnerships can be successful but only if local governments and partners work together to ensure that:**

- › Projects are clearly defined from the outset with groups that have preexisting relationships with city hall.
- › Partnerships are carefully documented and evaluated in real time, allowing for tweaks or even termination as the project progresses.
- › Transparency and employee buy-in are emphasized from the beginning, ensuring adequate capacity and commitment to making the project a success.

Over the years, budget cuts impacted its beauty as resources were insufficient to maintain the rose garden, and the rose bushes were dying for lack of regular maintenance. Neighbors volunteered to help but initially encountered concerns with liability, quality of volunteers' work, and loss of city employees' work.

To overcome these concerns, the council provided volunteers' insurance and confirmed this policy direction. With Rose Society-certified volunteers training 375 others, the Friends of the San Jose Rose Garden was formed in 2007 to assist in caring for the roses. In just a few short years, this partnership has brought the garden back to being designated "America's Best Rose Garden" by the All-America Rose Selections. This volunteer model has since been used in gardens throughout the nation.

Other partnerships have been less fruitful. One involved the relationship with a corporation that took years to recover after staff-level collaborations were found to conflict with procurement rules. Where staff believed close collaboration was allowed and a competitive procurement not necessary based on adoption of a brand as the city's standard, a subsequent investigation determined that proper steps had not been taken.

When it comes to addressing budget shortfalls and creating greater efficiencies in local government, however, public-private partnerships often receive acclaim as the way to go. Local governments outsource governmental services like trash pickup or parks maintenance to external providers, and others hire consultants to advise them on key policy issues.

But public-private partnerships are different than these contractual relationships. Whether it's a university that provides free consulting, a manager investigating an organizational redesign, a nonprofit that manages a street festival on a city's behalf, or a private company that provides pro bono help in prototyping and implementing a new technological system, public-private partnerships seem to offer considerable

advantages over local government's typical go-it-alone approach.

On the face of things, it would appear that if a private company, a university, or a nonprofit is willing to supply labor, offer expertise, or provide in-kind donations, then city or county staff members don't have to find qualified personnel, commit money, or convince the public or management staff that the project is worthwhile. So, what's not to like about public-private partnerships?

### **Inherent Complexities**

As anyone who's ever taken on this type of partnership knows, things aren't so simple. Even if a local government is not initially responsible for allocating money for a partnership, these relationships have significant costs. In order for them to succeed, communities must have the capacity and commitment to manage relationships for the duration of the project, and to continue successful projects if partnerships dissolve.

Both partners must have a clear alignment of interests and vision from the beginning of the project, and local government leaders must make sure that by pursuing a partnership they are not detracting from the development of internal capacity at city hall. Public-private partnerships can be an effective way of deploying existing governmental services or providing new ways of serving and engaging the public, but only if they are approached carefully and strategically.

We should note that the term "public-private partnerships" means different things to different people. Among government contractors, the term has been used to encompass all forms of nontraditional service agreements, from design-build construction to shared-risk models.

Real estate developers use the term to describe private development of publicly owned land. From some labor viewpoints, it has become a euphemism for outsourcing. Within this context, it comes as no surprise that confusion, suspicion, and ambiguity are routinely encountered in any discussion of these partnerships.

### **A Mixed Bag**

Administrators understand that there are often significant hurdles involved in making these relationships work. In the California Civic Innovation Project's (CCIP) recent survey of city managers, county administrators, and their deputies, managers often expressed concerns about sustainability of projects, the motives of partners, the investment of local resources, and partners' influence in determining whom local government serves. (Survey results can be found at [http://ccip.newamerica.net/publications/policy/the\\_case\\_for\\_strengthening\\_personal\\_networks\\_in\\_california\\_local\\_government](http://ccip.newamerica.net/publications/policy/the_case_for_strengthening_personal_networks_in_california_local_government).)

CCIP's report also found that few local government executives identified a public-private partnership as the most important new approach undertaken by their community in the past five years. While approximately one-third cited projects involving new ways of delivering services and more than one-fourth mentioned regional collaborations, fewer than 3 percent identified a public-private partnership as the single most important innovation in the past five years.

For many local governmental leaders, public-private partnerships are far from essential. Instead, they often represent one-off projects pursued for publicity or as a limited test case that is rarely parlayed into a more central piece of a community's core mission or function. Indeed, they might even present a conflict with that core mission.

In 2007, San Jose's city council asked staff for a report on pending partnerships and obstacles. The response was nearly a dozen initiatives that had encountered one or more policy conflicts, and as a result the council directed and received more than six months of progress reports on issues resolution. Absent this sustained council visibility, even the most worthwhile efforts might have languished in the "too-tough-to tackle" issue pile that confronts every organization.

Partnership efforts can also encounter unexpected turbulence. For example, the San Jose city manager's office thought



that a foundation for council discussion of prevailing wage rules could be laid with an objective university student team report that chronicled prior council actions on the topic. A local labor organization challenged the university team's objectivity, commissioning its own report rebutting the students' findings and reinforcing the positive impact of prevailing wage rules.

The CCIP survey also found significant variation in how respondents value different types of groups that might act as partners, with community groups ranking much higher than colleges and universities, for example. This distinction points to the value of personal relationships in these partnerships.

Community groups typically involve individuals that have long-standing involvement in community issues, or at least the potential to establish long-standing involvement. University students, and to some extent faculty too, are much more likely to only engage in a single project.

At the same time, public-private success can be found within the one-off niche. San Jose has established an ability to quickly refresh a shelf list of possible projects that is used by university and management development teams as practical exercises. While progress has been made in several areas as a result, this approach nonetheless reflects the reality that risky or time-sensitive topics won't be on the list.

### **Ensuring Meaningful Partnerships**

While concerns are understandable, they should not deter communities from pursuing meaningful public-private partnerships with the potential to make local government more effective in responding to community needs. Determining which partnerships fit the bill and how they should be managed can be complicated, though, especially for smaller communities with more limited resources.

The good news is that there are steps that managers can take to increase the chances of success before a project even begins:

**Align purposes.** Addressing community need is a powerful motivation for city and county administrators. Indeed, this ranked second on a list of 10 factors for adopting local government innovations and new approaches in CCIP's study. Yet responding to community needs may not carry the same importance for a potential partner.

Even when both parties agree that serving the public is the first priority, local government staffers and partners may define community differently. Achieving clarity on the purpose of the initiative in general and for each party from the beginning can go a long way toward preventing missteps later.

This is a particularly sensitive point when it comes to business involvement. Historically, a frequent assumption underlying business involvement in public-private partnerships has been the promise of future compensated work, either through expansion of a pilot or subsequent phases of a project. Yet this motivation can run afoul of procurement rules.

A recent trend, however, shows a promise of avoiding such conflicts. Many businesses have been willing to consider partnerships for other purposes—recognition, employee development, and marketing to future prospective customers, for example.

**Initiate ongoing communication.** Discussing purpose and goals is important, but cities and counties also need to do a better job of informing partners of the skills and capacity they bring to the relationship, and identifying areas in which their contributions will be limited from the outset. Communication, however, should not end with the partner.

Too often, local government management staff members fail to inform the public and lower-level staff of the partnership by articulating its value and responding to fears and objections from the beginning. This is particularly important when for-profit companies are involved. An early start, transparency, and a willingness to adjust proposals in

response to objections are all important if the partnership is to be successful.

As noted earlier, even the term *public-private partnership* can be met with suspicion based on its historical connection to outsourcing. Partnerships are relationship-based and as such, require ongoing maintenance.

This is particularly important as innovative partnerships can inevitably encounter such policy conflicts as worker wage requirements. Addressing policy exceptions is more difficult when this is the first conversation that engages stakeholders on a proposal.

**Clearly define roles and responsibilities.** While it is often difficult to establish an explicit road map for the roles and responsibilities for each party ahead of time, doing so can allay problems later. It might, for example, be easier to gain support for a project internally if employees understand that the new initiative will not displace them, and may, in fact, draw on their expertise and strengths.

San Jose has found that an extremely important role is that of a partnership coordinator, responsible for troubleshooting issues no matter where they lead. This provides a path and support to the team that reinforces the importance of its work, while recognizing that the group is creating a road map for others.

**Establish complementary skill sets.** Partnerships work best when the partner can offer something—say, knowledge of a particular technical area or an army of volunteers—that isn't present or readily accessible within city hall. At the same time, there are particular things that city or county staffers offer, and the direction of the project must be carefully monitored by local government leaders. Ensuring that there are neither overlapping skill sets or resources nor gaps in what elements are needed to make the partnership work can prevent headaches later.

This balance of skills can make or break a partnership. Competing expertise

is extremely challenging, as any manager who has challenged police or fire deployment methods can attest. At the same time, implementing a successful technology project might require a minimum level of staff knowledge to bridge the gap between existing resources and state-of-the-art application.

Of course, even the best planned partnerships may not always result in success. A partner may pull out of its commitment or a mission may change. A city may face internal or external pressures that prevent the full realization of the project. Leadership and availability of resources may change the priority or scale of the partnership.

### Planning for Contingencies

Because so much can change at the drop of a hat, it's important that local government leaders take the time to plan for contingencies and to evaluate the effectiveness of projects in real time. Here are tips that can help in the process:

**Manageable and targeted projects.** The most effective public-private partnerships are those that are targeted and time-limited, addressing a specific existing community need. Local governments should never assume continued partner support and should look for ways that a city or county can continue to support the project—whether this involves committing funding for the project in the future or in having the partner train staff to assume responsibility.

Successful partnerships are built on relationships, and building relationships takes time. Both parties to a relationship are most comfortable building on small successes rather than launching into a large, risky venture from the outset. In San Jose's case, the mayor's office is currently leading an effort to create a sustainable model for Silicon Valley workers to donate their time and talent to public sector challenges.

An early conclusion was that this effort requires the ongoing engagement and attention to managing relationships between agencies and volunteers, as

well as recognizing the practical limits of volunteer time commitments.

**Documentation, evaluation, and flexibility.** In some cases, partnerships may be a waste of a locality's time, energy, or money. But it is often difficult to know how things will play out until after a partnership is already under way.

That's why careful documentation of internal capacity and other local government investments relative to outcomes is so important. Partners and local governments must demonstrate flexibility in response to assessments and revising or ending projects when they are not meeting stated objectives.

It is also important for local governments to allocate resources for evaluation after the conclusion of a partnership, assessing the effectiveness of the effort in meeting the objectives for the project that were identified in the beginning. Such evaluations can inform future partnerships.

Partnerships are blazing new trails for government. Such trails are most valuable when providing markers for others to follow.

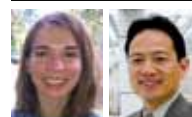
**Accountability and buy-in.** With no contract to tie them to a city or county, partners are free to remove themselves from a project at any time. Yet local government leaders can do more to ensure partners' continued participation as well as the continued commitment of their own staff.

IN ORDER FOR PUBLIC PARTNERSHIPS TO SUCCEED, COMMUNITIES MUST HAVE THE CAPACITY AND COMMITMENT TO MANAGE RELATIONSHIPS FOR THE DURATION OF THE PROJECTS, AND TO CONTINUE SUCCESSFUL PROJECTS IF PARTNERSHIPS DISSOLVE.

By committing terms to writing, publicizing the effort in the local press from the outset, and including staff commitments to partnerships in performance reviews, managers can build accountability into the process. They also gain buy-in both from employees who will be involved in the project, and from higher-ups with the power to commit resources. It is important for managers to support employees for the duration of the partnership. This means allocating enough time for employees to work on the project and providing ongoing infrastructure and support to employees involved in the partnership.

Public-private partnerships are hardly a silver bullet for addressing resource deficiencies in local government. But they can be made far more effective if local governments are careful and strategic in designing and implementing projects with third parties.

This isn't always easy; it requires awareness, resources, and commitment from the outset, but it can also result in great rewards for both local governments and partners. **PM**



**RACHEL BURSTEIN** is research associate, California Civic Innovation Project, New America Foundation, San

Francisco, California ([burstein@newamerica.org](mailto:burstein@newamerica.org); <http://ccip.newamerica.org>; @NewAmericaCA), and **EDWARD SHIKADA** is assistant city manager, San Jose, California ([ed.shikada@sanjoseca.gov](mailto:ed.shikada@sanjoseca.gov)).



# *SUPREME COURT*

## *2013–2014 TERM PREVIEW*

### What's ahead for local government

By Lisa Soronen and Victor Kessler

#### TAKEAWAYS

- › The U.S. Supreme Court will decide numerous cases this term relevant to local government.
- › Depending on how the cases are decided, cities and counties may have to change certain policies and practices.

**T**he past two U.S. Supreme Court terms have been of significant interest to local government officials and residents of the United States, as the Supreme Court has ruled on the Patient Protection and Affordable Care Act, immigration, same-sex marriage, the Voting Rights Act of 1965, and affirmative action.

In the term that began in October 2013, the highest court in the land has already agreed to hear cases affecting cities and counties on everything from such controversial topics as legislative prayer and demonstrations near abortion clinics to more esoteric subjects like ownership of abandoned railroad rights-of-way.



## On the Docket

Here are a few cases to watch during the current term that may have an impact on local government. For some interesting facts and statistics on the Supreme Court, see the box below.

*Town of Greece v. Galloway* might redefine the court's approach to legislative prayer practices. Under the 1983 case *Marsh v. Chambers*, the court held that a state legislature could hire a chaplain to deliver a prayer at the beginning of its sessions as long as the practice was not "exploited to proselytize or advance any one, or to disparage any other, faith or belief."

The town of Greece, New York's official policy allows any person of any or no denomination to deliver an invocation at the beginning of town board meetings, and the town does not approve or even examine the prayer in advance. In practice, all but four invocations (two Jewish, one Baha'I, and one Wiccan) have been led by Christians.

The court will review a "totality of the circumstances" test employed by the Second Circuit to declare the town's practice an unconstitutional violation of the Establishment Clause, which prohibits government from establishing or prohibiting the free exercise of religion, and revisit its holding in *Marsh* for the first time in three decades. The case could impact local bodies that begin their sessions with a prayer.

In *Mount Holly Gardens Citizens in Action v. Township of Mount Holly*, the court will decide whether the Fair Housing Act (FHA) allows plaintiffs to bring disparate impact claims in addition to disparate treatment claims. The FHA makes it unlawful to "refuse to sell or rent . . . or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin."

If a person is treated differently on account of a protected status, he or she may sue under the FHA. The question presented by this case is whether a policy or action (here, a plan to redevelop a low-income minority neighbor-

hood) that disproportionately affects a protected class of residents, without intentionally discriminating on the basis of race or other factors, can also give rise to an FHA claim.

Because redevelopment plans frequently, though unintentionally, can have disparate impacts on minorities, *Mount Holly* could expose local governments to increased liability.

## More Cases to Watch

In *McCullen v. Coakley*, the court will examine the constitutionality of a Massachusetts law that creates a 35-foot "buffer zone" around reproductive health care facilities into which demonstrators are not allowed to enter.

A 2000 case, *Hill v. Colorado*, upheld a similar law against a First Amendment challenge because it (1) addressed a legitimate state concern for the safety and privacy of individuals using the facilities; (2) was "content-neutral" in that it applied to all demonstrators

equally regardless of viewpoint; and (3) regulated the "time, place, and manner" of speech without foreclosing or unduly burdening the right of demonstrators to communicate their message.

A broad ruling by the justices could have sweeping consequences beyond this particular context, as local governments are continually challenged to strike a balance between free speech rights and the duty to protect their residents from harassment at clinics, funerals, political events, and other locations. The State and Local Legal Center (SLLC) has filed an *amicus* brief in this case.

In *Marvin M. Brandt Revocable Trust v. United States*, the court will decide who owns an abandoned railroad right-of-way: the United States or a private landowner living next to the right-of-way. In 1875, Congress passed a law granting rights-of-way to railroads through public land. Over the course of the next century, as trucking became a more popular method of transport,

## ABOUT THE SUPREME COURT

In recent years, the Supreme Court has decided some 80 cases a term. Last term, about half of its decisions were unanimous and about 30 percent (23) were decided 5 to 4.

Justice Kennedy is typically the justice most frequently in the majority in the 5-4 decisions. The court reversed almost 75 percent of the cases it accepted last term. Its three female justices voted together more than 90 percent of the time last term.

Oral arguments tend to be lively events at the Supreme Court. An advocate is most likely to be asked a question by Justice Sotomayor and least likely to be asked a question by Justice Thomas. In fact, in January 2013, it made the news when Justice Thomas spoke during oral argument—for the first time in seven years—making a joke about his alma mater, Yale Law School. For more Supreme Court statistics, check out SCOTUSblog.

The composition of the Supreme Court is likely to change significantly in the next few years. In 2016, three justices will be 80 years of age or older (Ginsburg, Scalia, and Kennedy). Some justices, however, continue to serve on the court through their eighties. Justice Stevens, for example, retired in 2010 at age 90.

The president nominates someone to fill a vacancy on the court. The Senate must confirm the nominee by a simple majority. For answers to frequently asked questions about the court, go to the Supreme Court's website at [www.supremecourt.gov](http://www.supremecourt.gov).

## NEXT TERM IS ALREADY SHAPING UP TO BE AN EXCITING ONE FOR LOCAL GOVERNMENTS, AND THE SUPREME COURT IS LIKELY TO GRANT 30 OR MORE PETITIONS BEFORE FEBRUARY 2014.

numerous railroads abandoned these rights-of-way.

The United States argues that another federal statute allows the United States to retain the railroad right-of-way if it is abandoned. If that is the case and the abandoned right-of-way is located in a city, the city automatically receives it from the federal government for free.

If the abandoned right-of-way is located elsewhere, a state or local government receives it for free if it establishes a “public highway” on the right-of-way within one year. State and local governments typically convert abandoned railroad rights-of-way into “rails-to-trails.”

*Sprint Communications Company v. Jacobs* arose out of a telecom dispute in Iowa. Sprint refused to pay another company’s intrastate access charge for a service and asked the Iowa Utility Board (IUB) for confirmation that it was under no obligation to do so.

IUB ordered Sprint to pay, and Sprint challenged IUB’s decision in federal and state courts simultaneously. Under the *Younger* abstention doctrine, the Eighth Circuit ruled that the district court should not hear the case, if at all, until the state court review of the IUB decision was complete.

The Supreme Court took the case to decide whether it mattered for the purposes of abstention that Sprint initially asked IUB for approval—a remedial proceeding—or if *Younger* abstention only applies where the state brings a party before the court or administrative board in a coercive proceeding. Most remedial proceedings happen on the local level and involve zoning variances, the denial of gun permits, and the like.

The question is whether a federal court should be able to review this type of decision immediately or whether it should abstain until the state proceedings have ended. SLLC has filed an *amicus* brief in this case.

*Environmental Protection Agency v. EME Homer City Generation* focuses on the scope of the Environmental Protection Agency’s authority to regulate states contributing to air pollution in other states downwind. Under the Clean Air Act, EPA sets air quality standards and the states create state implementation plans (SIPs) to achieve them. EPA may impose its own federal implementation plan (FIP) only if a state fails to submit or fails to correct a SIP rejected by the federal government.

If the court does not dismiss the case for a lack of federal jurisdiction, it will decide whether (1) an FIP may be imple-

mented based on a state’s failure to submit an adequate SIP *before* EPA had defined downwind pollution reduction targets; and (2) whether the Clean Air Act permits EPA to define a state’s contribution to pollution downwind in terms of cost-effective pollution controls or solely in terms of the physical amount of pollution.

While this case involves a dispute between some 25 states and a federal agency, cities and counties, particularly in downwind states, also have an interest in pollution reduction.

### Apart from Local Government

So far the court has accepted a number of other prominent, controversial cases that are not likely to impact local government. The box on this page briefly describes the three cases generating the most interest.

This term is already shaping up to be an exciting one for local governments, and the court is likely to grant 30 or more petitions before February 2014. Although most of the cases set for argument so far might lack the glamour and media hype of the big cases decided in the past two years, the court will deal with some of the essential mechanisms of local governance across the country.

Whether the justices will rule in favor of local governments remains to be seen. *PM* will publish an article mid-year in 2014 summarizing Supreme court decisions. **PM**

## SIGNIFICANT CASES TO BE DECIDED THIS TERM

In *National Labor Relations Board v. Noel Canning*, the Supreme Court will decide the scope of the President’s recess appointment power.

In *Schuetz v. Coalition to Defend Affirmative Action*, the Court will decide whether a state constitutional amendment banning affirmative action by public universities violates the Fourteenth Amendment’s Equal Protection Clause.

*McCutcheon v. Federal Election Commission* is a campaign finance case. The question is whether the federal biennial limit on contributions to non-candidate committees is constitutional.



**LISA SORONEN** is executive director, and **VICTOR KESSLER** is a former legal intern, State and Local Legal Center, Washington, D.C., (lsoronen@sso.org), (vk146@georgetown.edu).

The center files Supreme Court *amicus* briefs on behalf of the Big Seven national organizations representing state and local governments, which includes ICMA, National League of Cities, United States Conference of Mayors, National Governors Association, National Association of Counties, National Conference of State Legislatures, and The Council of State Governments.

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AFTER

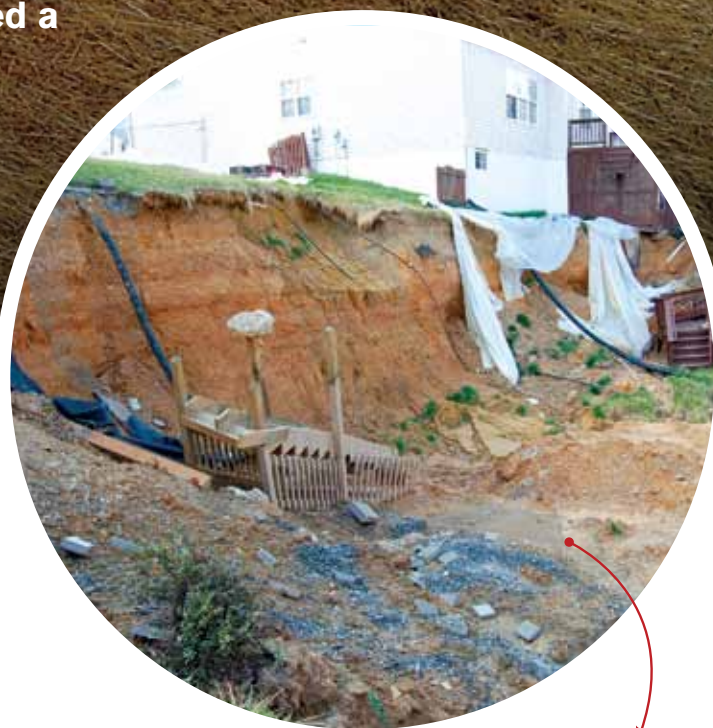
# Doing the Right Thing

How Stafford County, Virginia, turned a tragedy into a community triumph

By Anthony Romanello, ICMA-CM

## TAKEAWAYS

- › Sometimes localities are faced with problems they've never had before and that have no ready answers. Showing courage and leadership during stressful situations is the mark of good government.
- › Engaging the community and stepping up to help can turn a bad situation into good community relations.
- › Doing the right thing is always the best thing to do.



BEFORE



**R**egulations, laws, and policy dictate when local governments are responsible for taking action. But they also know when to step in just because it's the right thing to do. Stafford County, Virginia, staff joined with members of the community and local businesses to help two families whose homes literally came crashing down in August 2011.

In one week, Stafford had an earthquake, a microburst, and a tropical storm. The resulting ground saturation was more than the unstable earth behind the two homes in the Austin Ridge neighborhood could bear. The ground gave way, and the homeowners found their homes perched on the edge of a scene of devastation not unlike the aftermath of a hurricane or tornado. The natural events caused the ground behind the homes to crumble away, taking with it the backyards, decks, patios, fencing, and retaining walls.

The homes were built on a hill made of fill dirt. That dirt was soaked from the surface by a huge volume of rainwater. Underground springs that had never been properly diverted were pumping more moisture into the base of the dirt. The hill could not support the weight of the wet earth and it gave way, leaving the homes in no-man's-land where no one knew what was going to happen next.

Both homes were deemed uninhabitable and condemned. The situation could not have been more devastating for the families. These were homes where they had built years of memories, raised families, where one family had planned to retire, and another had started a second career. This was their safe place and sanctuary. The landslide changed all that.

### **Never a Question of Helping**

Whether Stafford County should help the victims of the landslide was never a question. The board of supervisors has a list of priorities that guides everything the county does, and one of these priorities is service excellence.

Each day, Stafford strives to provide personal and individual attention to its res-

idents, attention that is driven by respect, knowledge, commitment, and compassion. Using these priorities as a guide, Stafford set out to provide assistance.

"The county's goal from the first day was to help the homeowners," said Keith Dayton, deputy county administrator. He spearheaded the repair efforts, but it took a multitude of departments, staff, consultants, contractors, and other community organizations to help the families.

First, county staff secured funds from the Virginia Department of Emergency Management (VDEM) to reimburse the homeowners for their relocation expenses until a solution could be determined. Movement monitors were set on the scene of the landslide, and department staff began investigating the properties, determining that the slopes had given way twice before.

### **Constant Contact**

Communication was one of the keys to the project's success. County staff purposely made efforts to include the homeowners in as many discussions as possible. They were in a difficult situation and staff wanted them to know that the county and the state were ready to help.

The homeowners were invited to find out results of the county's preliminary assessment of the situation. Then staff met with them several times after that. "We wanted to let the homeowners hear it from us first before the entire community heard it," said Dayton. "They were the ones most affected."

Predictably, information and rumors were flying around the neighborhood. Stafford County wanted to get out its message and prevent false information from being spread. A community meeting with the homeowners' association was arranged.

At the meeting, tempers were hot and people were demanding answers. Dayton and county staff members concentrated on sharing technical information they had gathered and tried to stick to the known facts.

"Being able to share factual information instead of conjecture helped,"

Dayton said. "We ultimately had to say it was not the county's responsibility but that it felt an obligation to help if there was some way it could."

### **Reaching Out to the Community**

While the meeting was tense, the strategy worked and the community seemed to understand that Stafford County was going to do its best to resolve the problem. One of the families turned to their church, Ebenezer United Methodist in Stafford, to raise the money for repairs, and it created a designated fund for the victims and acted as a central point of contact for donors.

Robin Bennett, administrative assistant to the church pastor, said the church leadership really responded to the plight of the victims and wondered if there was something more they could do. "That's how the fund started," said Bennett. "We tried to raise awareness of what was going on and how to help."

The church looked at it as an opportunity to reach out to the community. Their efforts were successful as they and the homeowners raised more than \$55,000. Those funds were integral to the success of the project.

With some of the fundraising proceeds, they hired an engineer to create a plan. His solution was to use a system of foundation piles, which was similar to placing the homes on stilts, to stabilize them before the slope could be restored.

The county contributed \$62,000 in developer fees. The foundation piles would take a fair amount of that money and not leave enough for the rest of the repairs. And there was a risk that installing the piles could cause the homes to give way, risking the safety of workers and losing the homes completely.

### **Delving Into Drainage Solutions**

Dayton offered the homeowners another plan. "We took the information from the engineers and came up with a plan that involved using riprap as a retaining feature and an under drain system,"<sup>1</sup> he said. "One of the key things in a situation like this is it is caused by water.

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You can fix it only if you keep the water from saturating the ground.”

During the county’s investigation into the slope failure, staff discovered that springs were bubbling up from the hillside, and keeping the dirt wet and heavy. Unless the water could be drained clear of the hillside, dirt would not stay in place.

Contractors in the industry were consulted and asked for help. Two different engineering firms designed the plans at a free or reduced cost, and one business provided stone materials at a reduced price. This was a much appreciated contribution because there was no item in the county budget for this type of expense.

“One of the biggest problems we knew we had was finding someone who would touch this because you are putting people in a position of risk,” Dayton said. “We secured releases from both the homeowners, releasing the county and anyone who worked on behalf of the county. That was critical. If we hadn’t had those releases, no one would have touched the project.”

Again, keeping in close contact with the homeowners allowed county staff to build a relationship with them. Even when it appeared that nothing was being done at the site, staff wanted the homeowners to know that progress was happening behind the scenes and constantly kept them updated. Both homeowners agreed to the county’s plan for fixing the landslide.

Engineers, contractors, and materials were lined up, and the repairs began in July 2012. Trucks from the landfill hauled away tons of debris in the backyard. There was still one key ingredient missing though—that was dirt and lots of it. The project required approximately 10,000 cubic yards of dirt, which is equivalent to some 1,000 truckloads of dirt. Luckily, NASH Stafford started a homebuilding project two miles away from the scene of the landslide that involved moving a million cubic yards of dirt. The company agreed to provide all the dirt needed

to repair the landslide free of charge. NASH Stafford’s onsite contractor, Virginia Construction Corporation, agreed to load the dirt for no cost as well.

“We try to be good stewards of the community,” said Curt Teaster, vice president of Virginia Construction. “We’ve also always had a good relationship with the county and wanted to help.”

“We just kept sending trucks to pick up the dirt,” Dayton said. “We used utility trucks the most and private trucks when the activity was more intense.”

During the course of the project, Dayton and county staff visited the site every day to monitor the work. Dayton took photos of the project regularly and kept county staff and the board of supervisors up-to-date on the progress.

### A Closer Community

The repairs progressed as planned and by October 2012, the work was finished. A little more than a year after the landslide, the families were able to contemplate a future in the homes that had almost crumbled away in front of their eyes and today, homes and yards remain intact.

What happened in Stafford County’s Austin Ridge neighborhood could not have been predicted. But neither could the outcome. A terrible situation reaped the unexpected benefit of bringing the community closer together.

Local governments have laws to uphold, mandates to meet, and budgets to steward responsibly. To do a job in the best way possible, however, localities must do more than meet their obligations. They must do the right thing in facilitating community-driven solutions to problems that arise. **PM**

### ENDNOTES

1 Riprap, or piles of rock, is normally used to control erosion. In this case, the riprap functioned as a retaining wall. The under-drain system is a system of pipes underground that collect leaking water and drain it away from the site to the stream below the home.



**ANTHONY ROMANELLO**, ICMA-CM, is county administrator, Stafford County, Virginia ([aromanello@staffordcountyva.gov](mailto:aromanello@staffordcountyva.gov)).

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BY MICHAEL ABELS, DPA, ICMA-CM

# SERVICE CONSOLIDATION

Embracing collaboration to govern in the coming decade

**B**y economic measures, the Great Recession is behind us. Employment and consumer spending have rallied, real estate sales and prices are increasing, and local governments are seeing growth in revenues.

While these are positive signs, people who study local government believe that during the upcoming decade a new perspective will govern how the challenges of the 21st century are met. From this perspective, it could be years for local government revenues to return to pre-recession levels.

Adding to the challenges, many states have imposed revenue and expenditure limitations on local governments. Such state limitations as the Taxpayer Bill of Rights (TABOR) are severely limiting local government as these laws place state-imposed limitations on the revenues local government may legislate without a popular referendum.

Compounding the challenge to local government is the fiscal austerity and service retraction taking place at the federal level. To local governments, federal austerity means reduction in grants, declining federal investment in infrastructure, and decrease in social programs that benefit residents.

With these changes comes a realignment of the national economy. For several decades, the United States has experienced stagnation in family income, and the nation's mean family income is now less than it was in 1997.<sup>1</sup>

Expecting this trend to be the future norm, managers should expect that residents will have less to spend on consumer purchases, thus the consumer base for state and local taxes will decrease. With personal income levels stagnant or dropping, leaders of local government should not expect residents to have the

ability or political willingness to support the taxation necessary for addressing new and emerging community needs. Managers will need to use other tools.

## Rebuilding Service Levels

With these fiscal trends, local governments are facing realignment in the structure of federalism. Many believe that for the foreseeable future, local governments must operate as if they are on their own. Being on its own may result in new missions being placed at the doorstep of local government.

First, residents expect local government to rebuild the quality-of-life services that were reduced or eliminated in response to the recession. These include public safety and such public services as parks, recreation, education, public works, senior activities, and libraries.

Along with rebuilding services, the next decade will require local governments to assume a new and larger role in rebuilding the nation's infrastructure. The financial retrenchment of the federal government will dictate that state and local governments assume a more proactive and coordinated role in the development and rebuilding of the nation's infrastructure.

## Collaborative Multisector Regionalism

A significant barrier blocks local governments from addressing new missions dictated by the complexities of the 21st century. Local governments function in an obsolete system, one where artificial political boundaries define the area where local governments plan and provide services.

These boundaries are excellent for creating a sense of place; however, they sacrifice the economies of scale and service efficiencies that are possible through regionalization of services.

Managers may not be able to change political boundaries but as leaders, they can fundamentally change the service delivery system by creating regional and multisector (public, private, and nonprofit) service delivery systems. As demonstrated through the application of priority-based budgeting, regionalization can be a vehicle to facilitate cost efficiencies and will allow these services to improve outcome effectiveness.

To operate through regional multisector systems, managers will exert leadership focus in four areas:

1. Address infrastructure needs by creating regional multigovernment consortiums with regional taxing districts.
2. Provide traditional services through regional, multisector, collaborative systems.
3. Use regional strategic plans to identify optimum service areas and to identify lead agencies for service delivery.
4. Form multisector networks to address emerging economic and social needs.

## Building Public Safety Networks

In reaction to the recession, managers have fundamentally changed the mode of providing government services, reduced employee pay and benefits, consolidated some services with other governments, and reengineered the traditional hierarchical organization to obtain greater efficiencies. But in the face of structural fiscal austerity, more must be done to meet future service and capital demands.

Historically, on a limited scale, local government has used consolidation as a tool to attain economies of scale and financial efficiencies. Government consolidation, however, is difficult politically, and it has not always led to expected cost efficiencies.<sup>2</sup>

On the other hand, service consolidation, particularly combining public safety forces over a larger area, is proving to be a successful tool for attaining cost efficiencies possible through regional economies of scale. The next exponential gain in service efficiency will build on

what has been accomplished with public safety consolidation.

This successful model can be extended to local services through multisector regional networks. In new network collaborations, a combination of local governments, nonprofits, business, and NGOs can jointly deliver services.

A critical aspect for this collaborative model will be the identification of unified services where regional economies can be attained, then forming collaborative networks to deliver those services regionally. A key management responsibility will be to formalize agreements that set joint goals, appropriate financing, and establish outcome metrics for network services.

### Infrastructure Realignment

Forecasting to 2020, the American Association of Civil Engineers (ASCE) contends the United States confronts a \$1.6 trillion infrastructure deficit and rates the nation's current infrastructure at a D plus.<sup>3</sup>

ASCE forecasts that unless this infrastructure deficit is aggressively addressed, American society will see a decline in its economic prosperity and community quality of life. As we have seen by bridge failures in Minneapolis and Seattle during the past five years, our deteriorated infrastructure is already presenting a challenge to our rudimentary safety.

As the national political dysfunction intensifies, investment in infrastructure will increasingly fall to regional coalitions of local governments that will work in partnership with private entities and state government. This realignment will require that local governments abandon the model of assigning responsibility for infrastructure based on where the infrastructure is located.

Instead, the new collaborative model will require local governments to accept responsibility for infrastructure based on the degree its residents benefit from infrastructure located within a service region.

### Regional Strategic Planning

Strategic plans are collective maps for the future—collective in that they merge

residents, stakeholders, and governing officials to a common vision of the future. Historically, local governments have designed strategic visions focused on a single governmental jurisdiction.

Regional networks of service providers, however, must be created in order for local governments to address infrastructure needs and to attain the greatest service efficiencies. To plan for regional networks, managers will need to enlarge strategic planning from single jurisdictional planning to one involving stakeholders within a service region.

Governments must identify their regional area of impact and with multisector organizations, undertake regional plans that unify services, assign responsibility for regional infrastructure improvements, and, determine the means of financing.

### Role as Wage, Benefit Advocate

Economically, American society is

increasingly divided. Traditional institutions that ensured income growth and benefit protection for the private sector are disappearing. In 2012, only 6 percent of the private labor force was represented by unions.<sup>4</sup>

The decline in union influence and the American economy restructuring to a service economy is resulting in a movement where residents are focusing on local government as their advocate with private employers. While this movement is only beginning to show power, during this decade local government managers should expect residents to increase their expectations that a role of local government will be to enact living wage and sick leave laws covering private businesses.

To date, the political pressure for local government to legislate sick leave days on private businesses has been limited and focused on in such larger jurisdictions as Orange County, Florida, and Portland, Oregon. Resident expectations on local governments, however, will increase and has already resulted in several states, including Florida, Arizona, and Michigan, enacting legislation that prohibits local governments from enacting private employer wage or sick leave provisions. As the economy continues to concentrate wealth and income, the demand for local governments to act as a regulatory advocate for private employee wages and benefits will intensify.

An argument used against local legislation is the potential economic disadvantage that such legislation places on employers in single jurisdictions. When the demand becomes a political reality, managers should approach this

## A SIGNIFICANT BARRIER BLOCKS LOCAL GOVERNMENTS FROM ADDRESSING NEW MISSIONS DICTATED BY THE COMPLEXITIES OF THE 21ST CENTURY.

issue from a regional basis. This will help ensure that individual communities are not placed in an uncompetitive economic disadvantage.

The implementation of the Affordable Care Act (ACA) and the Supreme Court decision allowing states to opt out of the Medicaid expansion will place enormous pressure on local government to collaborate with health departments and medical providers to establish a health care network for those people that the health care system cannot accommodate.

Cities and counties have been in the health care vanguard by establishing employee health care centers. Initial outcomes indicate that these centers have resulted in significant cost efficiencies.

BY JOHN CRARY

## THERE'S MORE TO FUEL SAVINGS

Check out two additional reliable methods

Local governments may see demands to extend their center model to a community model serving lower-income residents eligible for the ACA. This could be especially true in those states that have rejected the Medicaid expansion under the ACA.

### Collaboration Going Forward

The future for local government will be defined by four important events. First, financing received from the federal and many state governments will continue to decrease. Concurrently, many states will continue to reduce home rule powers.

Second, service demands on local government will expand to include construction of infrastructure, as well as economic and social areas that traditionally were outside the sphere of local government.

Third, traditional budget balancing tools will not be adequate to support the infrastructure and program needs that local government will confront in this decade. Local government must move to a model where government services and infrastructure projects are provided and financed through multisector, regional networks.

Last, while local government services may become more regionalized, a critical element of governance success will be maintaining the public's identification with the sense of place that has traditionally been created by the geographically-defined community. **PM**

### ENDNOTES

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**MICHAEL ABELS**, DPA, ICMA-CM  
Instructor, University of Central  
Florida, Deland, Florida, and Former  
City Manager  
[mikela@mpinet.net](mailto:mikela@mpinet.net)

I just finished reading the article, "Maximize Savings in Fleet Fuel Costs," in the September 2013 *PM*, and I want to share some comments about it. Generally, I find *PM* articles to be extremely simplistic and only of value for someone just starting out in the management profession.

While simplistic may be helpful to some managers, it leaves others feeling shortchanged—something like a tofu burger. The fleet fuel article is my latest example, and it left an empty feeling.

### What's Missing

The article did not talk about the latest in data gathering and management of fleet fuel costs that are achievable by installing satellite GPS units. These units monitor not only location but speed, idle time, hard breaking, seatbelt use, and condition of the vehicle.

While the article had many ideas that are certainly germane, I think the two most significant means of lowering and/or stabilizing fuel costs are to reduce idle time and to establish a new model for how we purchase fuels.

Idle time requires the breaking of bad habits that have developed over the years. Operators will tell you they need the vehicle on for heat, air conditioning, operating the radio, and responding at a moment's notice. All of these excuses have some validity.

To save costs on fuel, however, requires that you reduce or in some cases eliminate these barriers. Managers who monitor their fuel use and specifically the MPG of their fleet can see how efficient their vehicles are and how large a challenge or an opportunity awaits them.

The acquisition of fuels cannot follow the traditional bid-and-award process of old. Since the price of these products changes hourly or in some cases even by the minute, accepted purchasing methods have to change to meet today's reality.

A manager must monitor the daily prices of fuels and when prices are low or appear to be at a low point—seasonally or on an annual basis—be able and willing to commit his or her community to a fixed-price agreement. We have used this model in Greenwich, Connecticut, for the purchase of gasoline, diesel, fuel oil, propane, and electricity with extremely good results.

### Knowledge and Needs

Managers must know, of course, how much of each of these products a community uses. They need to specify delivery requirements and a host of other good practices.

The main point is that the timing of purchases in the market can result in significant price-per-gallon savings that can dwarf most of the operational recommendations included in *PM*'s fleet article.

Obviously, there is more to this discussion than what I have included here, but I think the article could have included more on the value of decreasing idle time and the benefit of a more aggressive—and obviously more dangerous for the manager—approach to the purchase of these products. **PM**



**JOHN CRARY**  
Town Administrator  
Greenwich, Connecticut  
[John.Crary@greenwichct.org](mailto:John.Crary@greenwichct.org)



BY STEVE JOHNSON

# SUCCESS WITH CUSTOMER SERVICE TRAINING

Dixon, California, shares tips

**D**ixon, California (population 18,500), provides a full range of services, including police, fire, wastewater, recreation, public works, engineering, and administration.

The Great Recession negatively affected Dixon's finances. Beginning in 2008, the city council adopted mandatory furloughs or equivalent reductions in benefits for city staff, and partnered with the city's bargaining units to maintain essential city services but with reduced salaries and staffing.

Staff decreased from 130 full-time employees to less than 100 during a four-year period. Even with reductions in staff and in salaries and benefits, residents continued to expect top-notch service.

## Service First! Training

In 2012, after four years of financial malaise, City Manager Jim Lindley and I acted to refocus employees back on the most important core service provided by Dixon: customer service. The idea behind this effort was to build and improve existing service levels, albeit with significantly fewer staff.

The city partnered with a consultant to provide training, which was dubbed "Service First!" From October 2012 through July 2013, employees attended four sessions, each of which lasted two hours and covered these topics:

### Session 1: Legendary Service

- Who is my customer?
- Being a customer service leader.

### Session 2: Keeping Cool When the Customer Is Hot

- Four steps to remain calm yourself.
- Calming the customer.

- Recovery strategies.
- Avoiding burnout.

### Session 3: Building Rapport

- Treating each customer as a unique person.
- Body language, tone of voice.
- Words and phrases.
- Matching your communication style to the customer.

### Session 4: Influential Communication

- Controlling the telephone call.
- Inquiry/advocacy model of communication skills.
- Saying "no" positively.
- Educating customers/providing explanations.

At the beginning, some employees asked if the training was provided to correct mistakes. Other employees felt that the training was not necessary since they already were well versed in customer service. Still others wondered why the city would spend scarce resources on training. While the manager and I appreciated these concerns, the desire was to take staff members to another level of providing service, and we felt they would respond positively once the training had taken place.

Once the first session had been offered, employee comments were reviewed by staff to improve subsequent

sessions. Comments included how training helped them understand how to be calm and maintain perspective when dealing with difficult customers; customers aren't always upset at you--you are just the first person with whom they come in contact.

## Six Key Principles for Effective Training

While providing the training, the city benefited from adhering to six principles:

**1. Have employees in each major department act as trainers** for those employees who cannot attend the training in person. This "train-the-trainer" approach worked particularly well for police and fire employees who worked

shifts and could not attend training in person without incurring overtime. Employee trainers were given teaching guidance from the consultant in advance of their first sessions.

**2. Use excellent customer service training from a reputable vendor.** The city purchased its Service First! program from a publisher of experiential HR training and development at an affordable cost of \$299, plus tax ([www.hrdqstore.com](http://www.hrdqstore.com)).

**3. Break the training sessions into bite-size increments** lasting no more than two hours each.

**4. Use real-life examples** during training that mirror challenging customer situations city employees regularly face.

**5. Ensure that employees from different departments work together during the training.** The city benefited

**INVESTING IN CITY EMPLOYEES  
MAKES THEM FEEL VALUED AND  
IMPROVES MOTIVATION.**

from the cross-pollination that occurred by teaming together employees from different departments. During training, teams included employees from public works, administration, police, and fire departments to determine how they would collectively solve challenging customer service issues.

**6. Commitment to excellent customer service starts at the top.** Manager Lindley demonstrated commitment to building and improving existing service levels by dedicating staff time and resources to do so. He also regularly attended the training sessions, as did other management staff.

## Measuring Results

Overall, it appears that the training was successful when measured by an increase in the number of positive comments received from residents and a corresponding reduction in the number of negative comments on poor service.

According to the Wikipedia Foundation, employees benefitted in these ways:

- Investing in city employees makes them feel valued and improves motivation. When employees treat customers well by using proper customer service skills, they are more likely to be treated well in return. These factors can help to increase employee loyalty and reduce turnover, thereby lowering costs.
- Teaching the same customer service skills to all personnel provides staff with a common process for dealing with customers.
- Explaining next steps in a process and confirming that the customer is satisfied decreases callbacks and return customers. Research has shown that improving first-contact resolution is one of the primary drivers of customer satisfaction. **PM**



**STEVE JOHNSON**  
Human Resources Director  
Dixon, California  
sjohnson@ci.dixon.ca.us

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Signed: Beth Payne, Editor

BY MIKE CONDUFF, ICMA-CM

# THE BEST LAID PLANS

## What is position tenure based on?

A colleague who found himself in transition following a recent election asked for my governance thoughts on why some managers are able to have long tenures in their positions. “Mike,” he said, “I fully intended for this to be my last stop. I really saw myself spending the balance of my career right here. Is time in a position a function of the manager, the council, the community, or a combination of the three?” he asked.

I knew he was still grieving a bit and requested an opportunity to do some research before responding.

First, I called a handful of friends, each with 20-to-30-plus-year tenures in their different communities and asked them to what they attributed their longevity. As suspected, they each had unique responses with a few key similarities.

Building trust was a common theme, as were the attributes of open communication, patience, persistence, and predictability. Long-term stability on the council played a role as did community history. Here is a more extensive summary of what I learned:

**Trust is foundational.** “We have survived some rocky times here,” one of my friends confessed, “but we were always able to find a path through it because the staff and I had built up a deep reservoir of trust with the council and the community prior to the difficulty.”

Like author Stephen Covey’s concept of an emotional bank account, my friends each had cultivated the habit of always doing the right thing no matter the circumstances in order to make deposits in their trust account.

Most often these deposits consist of small, consistent behaviors: telling the truth even when painful; setting an ethical example in all things; and holding others accountable to that same standard.

**Tip:** With a large trust balance, when a mistake or misstep occurs and is honestly confessed, forgiveness can be found.

**Communicate relentlessly.** “We share the good, the bad, and even the ugly,” another colleague acknowledged. Sometimes it is painful to admit that results were less than hoped for or that a member of the team transgressed a boundary, but doing so quickly and voluntarily keeps the rumor mill more quiet than it would otherwise be, plus it provides the benefit of the doubt when something is alleged. **Tip:** Find out how your elected officials like to be communicated with and use their individual channel frequently.

**Proactive patience.** “Our saying here is that we want to travel at the speed of the council, giving them a nudge when appropriate, or gently applying the brakes if necessary,” shared a colleague who has spent his entire career in the same community. “Over the past 30 years we have had some mayors and councils that were aggressive, and we want to be capable of accomplishing their agenda.

“Conversely, with a more cautious or slower-paced group, we as staff have to be able to bring it down a gear. Remember, Mike, it is a marathon, not a sprint!”

**Tip:** Be careful not to get too far out in front of your council.

**The power of persistence.** A career-long colleague who recently announced his intent to retire gave me this insight: “Early on, we developed the process of annual council retreats that focus on outcomes as well as behaviors and process. As new members are elected, we ask them to revisit the goals so that we are persistently pursuing them. A detour here and there is not too scary when the destination is sure.”

His community has already named the deputy as the next manager, keeping the sense of continuity and governance process in place. **Tip:** Help the council help you by having a good governance system in place.

**Personally predictable.** “I work hard to behave the same in triumph as in defeat,” another friend shared. As I digested this, he amplified his comment: “I want folks to know that they can count on me to be predictably excellent. I am going to always give my best and not get too high when things are going well, or too low when they are challenging.” **Tip:** We all work in the proverbial fishbowl, and behaving in private as you would in public helps you be predictable in a positive way.

After the conversations, I sat down and sent my in-transition colleague this note:

“I know that being in transition is one of the unpleasant components of our profession, especially when you were hoping to settle in. As I have pondered your question, I am still not sure that I have a complete handle on a truly long tenure, but do believe there are basic factors: Build trust and be trustworthy. Never compromise your ethics for expediency. Communicate relentlessly. Practice patience. Be persistent and predictable in your pursuit of excellence.

“Above all, recognize that as painful as it is, we do serve at the pleasure of the council, and that upsets do occur. Being lucky is good and sometimes even the best laid plans do go awry. Hang in there, my friend, you have lots to offer the right community!” **RM**



**MIKE CONDUFF, ICMA-CM**  
Former City Manager, President and CEO, The Elim Group, Denton, Texas  
mike.conduff@theelimgroup.com





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BY SHEYI IPAYE, CPM

# TENSE TIMES CAN TEST A MANAGER

Shifts in opinion can happen quickly

**T**his is a true story, one that illustrates the intense pressures that local government managers sometimes face, pressures that help them develop mental and tactical strength over time.

A developer who was also president of a state homebuilders association submitted a plan for the development of 647 single-family homes on the south side of a city. The planning and zoning commission approved the plan and so did the city council.

After 147 homes were completed, councilmembers decided that the homes were too close to each other (zero lot lines); therefore, the council requested a meeting with the developer and asked that the lot sizes be increased from 6,000 to 9,000 square feet.

The developer expressed his concerns regarding his additional costs and lost revenue. He reminded them that both the commission and the council approved his plan. He maintained his position and kept building according to the previously approved design.

Finally, the council placed a moratorium on the project and all construction work ceased. At this time, the developer filed a lawsuit against the city.

## Where I Came In

It was during this difficult time of tension between the council and the developer that I was hired as the city manager to help resolve the situation, but still promote growth. I quickly arranged for a meeting with the developer, the developer's attorney, and the city attorney.

The developer agreed to meet. I listened carefully to what he had to say, and I also expressed the council's position to him. After some two hours, the developer told me that he was willing to consider

increasing lot sizes from 6,000 to 7,500 square feet, if the council would lift the moratorium placed on his development and the city would consider two requests:

1. Build a bridge to connect two tracks of land on his property.
2. Allow asphalt overlay for street improvement in his subdivision rather than concrete roads as previously approved.

## Reaching a Consensus

I invited the developer to come to the next council meeting and express his concerns. The developer declined, but he indicated that he was willing to go before the court and discuss the proposed resolution to the lawsuit. He urged the city's attorney to draft an agreement based on his requests.

The attorney drafted a document stating the developer had agreed to increase the lot size to 7,500 square feet and the city would build a bridge to connect the development, waive the concrete requirement, and accept an asphalt street instead. With the agreement in hand, we went back to court where the document was signed, and the lawsuit was dismissed pending the council's approval of the agreement.

I quickly called a special council meeting where the city attorney presented the document to councilmembers. After a long deliberation, the mayor called for a vote and the vote was six for the settlement and one against.

## A Sudden Shift

The meeting ended with joy until two days later when two councilmembers came to my office and asked to rescind their votes regarding the development. I told them that because the council had already voted on this issue, the lawsuit had been dismissed, and the moratorium lifted.

The councilmembers again expressed their desire to recall their votes and requested that I call another special meeting immediately. I reminded them of the new policy regarding calling a special meeting, which states that the mayor and one other councilmember, or three councilmembers, can call a special meeting.

They returned with the requisite three signatures, and the meeting notice was posted with the development issue listed as the only item for deliberation at the meeting.

The meeting began at 7 p.m. and ended at 1:35 a.m. After an extremely long and often contentious discussion, the mayor called for a vote. The result: five against and two in support of the previous resolution submitted to the court.

I went with the mayor and the city attorney to present the council's decision to the court. The judge told us that the case would be assigned to a different court. The moratorium on the project was once more in effect.

## Wasted Resources

It took nine months before a retired judge could be found to hear the case. During this time, the cost to prepare the case for trial was somewhere between \$20,000 and \$25,000 per month.

This situation was unbearable for me. The residents were the ones suffering because of it. I became frustrated and resigned my position. Seven days later, I was fortunate to accept a new job offer.

In the end, the case went all the way to a state supreme court, where it was referred back to the district court, and the city lost at trial. I was saddened by the thought of the money wasted on an unnecessary lawsuit. This experience reinforced my belief that we must place the needs of the residents ahead of anything else. **PM**



**SHEYI IPAYE, CPM**  
City Manager  
Forest Hill, Texas  
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### Summit Tentative Agenda

#### Thursday

1:30-4:30

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