Cities Brace for Financial Impact of COVID-19

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10 Years of GreenStep!
The state GreenStep Cities program has been helping cities with their sustainability efforts for a decade now. PAGE 12

Race Equity
Northfield has instituted programs and policies to make the city more welcoming to all. PAGE 30

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ON THE WEB
Check out Minnesota Cities online at www.mncities.org.
How Are You Doing — Really?

BY DAVID UNMACHT

A common question we ask and receive is, “How are you doing?” During a pandemic, these four simple words have much deeper meaning and implications than in normal times. “Oh, I’m fine,” is often accepted and given in return. But unlike any other time in our lives, a deeper understanding is needed to fully reveal the real answer.

It’s no secret the months of March through July were tough for everyone. I found myself overly focused on the challenges and difficulties, at times losing perspective on what really matters. Working from the confines of my home, having endless (tiring) virtual meetings, hearing questions I couldn’t answer, trying to respond to emergency orders and unrest, and dealing with the inability to control much of what I did — this has all weighed heavily on me.

In retrospect, the biggest challenges were more intangible: the unknown, uncertainty, and unfamiliarity of time and future. My work folders were chock full of 2020 priorities and expectations on March 16 that became dated on March 17. The family calendar my wife and I normally keep full of plans and activities became empty, as there was nothing to track or schedule.

I needed an outlet, and I found it: a near daily devotion to physical exercise. In the first three months of staying at home, I tallied over 153 miles running and 575 miles biking — or the equivalent of the distance between my home in Eagan, Minnesota, to Colorado Springs, Colorado.

The ability to channel my body and mind from the endless work inside to refreshing exercise outside was literally the fuel that kept my balance and semblance of order. I discovered the perspective I needed to do my job and stay focused on what was important. But until a purely coincidental reading about one man’s life, I was still searching for the right context.

I discovered that needed context a few weeks ago when I read the marvelous story of Welles Crowther in the book *Red Bandana*, by Tom Rinaldi. Rinaldi writes about how the red bandana came to symbolize Crowther’s life, death, and memory. He chronicles the choices and the ultimate sacrifice made by Crowther from inside the South Tower of the World Trade Center on Sept. 11, 2001 — a powerful story about a young man’s life cut short by choices he made to save the lives of strangers.

The 24-year-old Crowther worked for a financial firm, but his life’s passion was firefighting. After his death, an application to join the New York City Fire Department was found in his apartment. Rinaldi’s writing of Welles Crowther’s short life brought out all my emotions ranging from smiles to tears.

The parallels between Welles and myself are limited to one. This is where I found the context I was searching for. It came where the book starts, with the red bandana. In January 2018, I went on a mission trip to Haiti. Our leader advised that we purchase bandanas to wear as the heat was unbearable, and they served a highly functional purpose while performing volunteer work for Haitian families.

From now on, if you ask a friend, colleague, or family member, “How are you doing?” and they offer, “I’m fine,” search for a more meaningful answer. Crowther made, I made, in our personal decisions to help others, although in dramatically different situations. Going deeper, I reflected on the everyday risks and challenges of our first responders, our public health professionals, and all public safety personnel helping and serving others, making difficult choices, and often sacrificing their lives for the sake of others.

And now, coming full circle, the book and my thoughts brought a more meaningful revelation to the question, “How am I doing?” My response now is more honest. If asked, my answer begins with what you would expect during a pandemic, but the true meaning follows: “I’m doing the best I can with a good job, a strong family, my health, and the ability to make my own choices during this difficult time.”

I fully recognize that every person’s situation is unique: some better, some worse. We also know that conditions and experiences are fluid and do change.

From now on, if you ask a friend, colleague, or family member, “How are you doing?” and they offer, “I’m fine,” search for a more meaningful answer. If you are asked, “How are you doing?” — don’t hesitate to be honest, especially now.

David Unmacht is executive director of the League of Minnesota Cities. Contact: dunmacht@lmc.org or (651) 281-1205.
See You in September at the VIRTUAL SOCIAL FOR SAFETY CONFERENCE

The intersection of good communication and public safety has never been so important. If your city staff want to advance their social media skills as part of their work with or on behalf of a police department, ambulance service, fire department, or any other public safety role, the second annual Social for Safety Conference is happening Sept. 22–23 on a screen near you. Conference planners from the sponsoring organization, Government Social Media, are offering a variety of formats to keep keynote and breakout sessions engaging and interactive. On-demand viewing access will also be available for registrants. Learn more and register for the conference at www.governmentsocialmedia.com/s4sconf.

Just Deeds in Golden Valley

The Golden Valley Human Rights Commission launched the Just Deeds Project this summer to help homeowners discover and renounce restrictive covenants on their property titles. Now they are opening the program to other cities and welcoming partners from across the state. A restrictive covenant is language used to prohibit the purchase, lease, or occupation of a home by a particular group of people. They were predominantly used to exclude Black, Indigenous, and other households of color from owning property during the early-to-mid-1900s.

The covenants are no longer enforceable, but communities can better understand and address racial disparities still present today by taking a good look at how these practices of segregation influenced housing, investment, and access to education and services. No one has done a systematic search for covenants outside of the Mapping Prejudice project in Hennepin and Ramsey counties, but there are confirmations of restrictive covenants all over the state, says Golden Valley City Attorney Maria Cisneros. Learn more about Golden Valley’s program at http://bit.ly/gv-restrictive-covenants.

Burnsville Offers Credit for ‘Smart’ Irrigation

Property owners in the City of Burnsville are showering praise on a city program that offers a water bill credit for installing a smart irrigation controller on their lawn irrigation systems. The credit covers the cost of the irrigation controller up to $200.

What is a smart irrigation controller? It’s a device that uses a Wi-Fi connection and local weather reports to inform when to water and when to wait — allowing everyone to avoid that awkward moment when the sprinkler is on right before a rainstorm.

This was the second year of the program and, according to Utilities Superintendent Linda Mullen, residents are seeing green. “I am saving $10 or more a month on my water bill,” said one program survey respondent. “My lawn was as green as a golf course.”

A Sweet Roadside Attraction in Halstad

The latest Minnesota roadside attraction “cropped up” this year in the City of Halstad, a town of 581 in the northwestern part of the state. A giant 21-foot-tall sugar beet statue, the idea of a local family, was commissioned by the city to recognize the importance of the sugar beet industry, the publication Ag Week reported. The Red River Valley region is the largest sugar beet-growing region in the country, according to the U.S. Department of Agriculture.

The Halstad Business League led a fundraising effort for the statue, as well as the creation of what is to become the surrounding “Sugar Beet Park” — complete with sugar cube-shaped interpretive displays. The root vegetable now takes its rightful place among a string of community attractions along the “Historic King of Trails,” a route along U.S. Highway 75, stretching from Luverne to Hallock. Read more about the “World’s Largest Sugar Beet” at https://bit.ly/halstadbeet.
Gardening Helps Grow City Livability

Research from the University of Minnesota released this year confirms what many a garden hobbyist can tell you: Time spent in a home garden just makes you feel better. The study found that gardening, and specifically vegetable gardening at home in an urban setting, is associated with higher emotional well-being, particularly among women and low-income residents. The researchers suggest that resident access to home gardens could be considered a factor in a city’s livability, based on the data, as well as in addressing food insecurity. Next up, researchers intend to compare home gardening to community garden settings. Learn more about the study at https://bit.ly/UofMgardening.

NLC News: Fiscal Conditions Report Released; City Summit Goes Virtual

The 35th annual City Fiscal Conditions report by the National League of Cities (NLC), released in August, was dominated by the impact that COVID-19 is having on local economies. The report reveals that America’s cities are experiencing the fiscal consequences of this pandemic downturn at an unprecedented speed, and it will take years for municipal budgets to recover. Access the report at www.nlc.org/resource/city-fiscal-conditions-2020.

And, speaking of COVID-19, NLC’s 2020 City Summit is also being affected by the pandemic. The annual conference, originally planned to take place in Tampa, will now be a virtual event. From Nov. 18 to 21, city officials from across the country will plug in to best practices, new resources, and fresh faces—all from the comfort of their own hometowns. Still dreaming of Tampa? The event will return to this year’s original seaside locale in 2024. Learn more and register for the City Summit at https://citysummit.nlc.org.
Sustainable. Attainable.

Crews in Moorhead, Minn., are watching recycling “pick up” substantially after rolling out 16,000 no-sort recycling bins. City leaders procure Toter carts and other equipment by using cooperative contracts through their government partner, Sourcewell.

Watch this video to see blue recycling carts turning a city green.

sourcewell.co/moorhead_lmc

NJPA is now Sourcewell—your government source for more than 400 cooperative contracts.

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How Has Your City Reduced Salt During Snow Removal?

JOHN KOTHENBEUTEL
PUBLIC WORKS DIRECTOR
SARTELL (POPULATION 18,754)
In the City of Sartell, we strive to be on the forefront of innovative techniques and tactics that can help preserve the environment and promote cost-efficiency.

In 2016, our public works leaders attended a symposium that informed us of new techniques to reduce our salt usage. One technique we’ve had success with is pre-salting roads.

Many advantages to pretreating
To implement this technique, we created a pretreatment salt brine that is roughly 22% salt and 78% water. When roads are pretreated prior to snowfall it allows the salt to sit in the pores of the road as a dry material and stick.

When the snow lands on the pre-salted road, it melts and activates the salt. This eliminates slippery conditions and snow build-up, which is more difficult to remove in the future when it is packed. The pretreatment also helps salt from the snowplow to stick better to the road instead of getting knocked to the curb. This means less salt is needed after the snowfall.

Since implementing this program, we estimate that we have purchased 25% to 50% less salt. We are also saving on labor costs because our public works team often doesn’t need to go out during or after snowstorms. We think there are also cost savings to the public, as pretreating prevents accidents.

The program is also better for the environment. By reducing our salt use, we have reduced the amount of chloride in our receiving waters.

Learning as we go
As with any new program, we have learned things along the way. We started with a small number of roads to ensure it was successful and have grown the program each year. The more experience we have with the process, the better we become.

Our biggest apprehension initially was placing salt on the road prior to snowfalls, which does include a high amount of water. We worried this would make conditions worse instead of better; however, that has proven not to be the case. The water concentration allows the salt to stick in roadway pores and prevent poor conditions upon snowfall.

Expanding the program
This technique has been extremely successful. We are continuing it and adding more miles of roadway each year. We started with main arterial roads and are now planning to pre-salt neighborhood roads this winter.

DON PETERSON
PUBLIC WORKS DIRECTOR
MOUNDS VIEW (POPULATION 13,328)
We started working on reducing our salt usage in Mounds View over 10 years ago. I learned from seminars I attended that reducing chloride was the way to go moving forward. The goals are to improve the safety of our roads and lower the environmental impact of the road salt getting into our water.

Early attempts unsuccessful
The city tried years ago to use salt brine and had major problems. It failed because it was gumming up the equipment. The public works staff were very frustrated because they spent time unblocking and repairing the road salting equipment.

When I first joined the city in 2010, I started pushing the public works crew to ramp up its salt-reduction efforts again by using liquids. The staff resisted this, saying, “We tried that, and it didn’t work.”

I decided what I needed to do was educate staff on the proper use of salt and applications. So, I started sending the truck operators to salt-reduction seminars and classes. They came back with a new appreciation for the idea.

Making progress
We’ve tried a couple of different things. First, we tried anti-icing with liquid and weren’t happy with that. We don’t have the traffic on our residential streets to get good results.

Now we are pre-wetting the salt within our augers, an idea we got from St. Louis Park. We’ve added a blue food-based dye that mixes into the brine, so that the operators can see the solution.

This technique has worked to reduce the amount of salt we’re using, but we’re still working to reduce it even more. We continue to tweak the system, increasing the amount of liquid and modifying equipment.

It’s not just the salt you’re using, it’s the operations. You want to get down to your brine as quickly as you can to have the best effect on your roads. When 2 inches of snow gets compacted, then you have to add more salt. So, while you’re reducing your overall salt you might increase man-hours plowing earlier.

Working well with other programs
The City Council has been very supportive of our efforts to reduce salt. Another city initiative — the Water Preservation Program — focuses on protecting groundwater, water conservation, and reducing discharge into the sanitary and stormwater systems. So, our salt-reduction efforts really complement that program.
Cities Brace for Financial Impact of COVID-19

BY DEBORAH LYNN BLUMBERG

In Crosby, like in many cities across Minnesota, COVID-19 is taking a toll. Crosby (population 2,360) is feeling the strain from a significant drop in revenue from fees it usually collects at its community and fitness center, summer camp, and campground. All were closed for about two months because of concerns over COVID-19. The city’s cash flow was also impacted when their county decided to give relief to taxpayers by pushing property tax payments — the city’s biggest revenue stream — from May to July.

But at the same time, with prices for major equipment dropping, Crosby has used money saved the last few years to make several large purchases over the last few months — a used firetruck, a street sweeper, and a new snowplow. Like other cities across Minnesota and the U.S., Crosby is grappling with how to maintain and improve services for residents while facing potential steep drops in revenue, increased expenses, and battered financial markets where interest rates remain low.

The National League of Cities estimates that because of the coronavirus pandemic, U.S. cities will experience a total loss of over $134 billion this year, or a 21.6% loss in revenue, and a loss of $360 billion over the next three years. Some cities will face a total revenue loss of up to 40%.

Lisa Sova, former city administrator of Crosby, recently became an assistant finance director with the League of Minnesota Cities, where she is providing consulting services to member cities. It’s likely that COVID recovery will be a focus of her work for the foreseeable future.

“COVID has definitely affected cities,” Sova says. “But for cities that have been saving for replacement capital, it’s a good time to spend, which seems counterintuitive. As demand wanes for equipment, cities have the opportunity to make their dollars go further.”

Crosby is lucky to be in a strong financial position because the city worked diligently to save and raise its fund balance.

Many cities, however, face tough decisions on how to manage their budgets and expenses given the growing list of potential financial problems they may face through the end of this year and into 2021, as the pandemic continues.

“Minnesota cities are hurting, and it’s fairly pervasive,” says David MacGillivray, principal and municipal advisor at Baker Tilly. As a city leader, you “really have to demonstrate you have a plan,” he says. “People want to know their local leaders are managing through the uncertainty.”

A widespread financial impact

As unemployment soars during the pandemic, cities across the state are bracing for the likelihood that some residents may not be able to pay their property taxes on time or at all. The City of Plymouth was worried about this, says City Manager Dave Callister, but collections ended up being fine for the first property tax payments of 2020 in May.
“This is good news,” Callister says, “but it remains to be seen whether that will continue for the second half property taxes due on Oct. 15.”

Brian Reilly, senior municipal advisor and principal at Ehlers, says cities with a non-diverse tax base may have a harder time, including those in which the top 10 taxpayers make up more than 10% of the tax base. Those cities may need to increase their tax rate to raise the same dollars, but there may be apprehension about doing that.

What’s more, future local government aid (LGA) money that many cities depend on could be reduced. Some worry that the LGA already allocated for this year could be cut by the Legislature during a special session or through a process called “unallotment” — which the governor has the power to do after the state’s rainy-day fund has been depleted.

Gov. Tim Walz has said he won’t pull funds, but if the state’s December budget forecast indicates a large deficit, there’s a chance that December 2020 LGA payments could be cut.

With Minnesota having reduced its surplus because of the slew of unemployment claims, possible disruptions to what cities receive in LGA is likely more of a 2021 issue, says MacGillivray. For Crosby, LGA makes up about 35% of its budget. “I feel reassured that Crosby should be OK for 2020,” says Sova, “but we’re just not sure about 2021.”

**Other areas of reduced revenue**
Cities are also facing reduced revenue from a variety of other sources. For example, Callister says a slowdown in building permits has put a minor dent in Plymouth’s revenue. His city has also taken a hit from a lack of community and ice center rentals and a drop in traffic violations with fewer cars on the road.

Charitable gambling revenues generated by pull tab sales in bars are also down, Callister says. And for those cities with a local sales tax, revenues from that source have also declined while businesses have been closed or experiencing lower sales. Many cities have also reduced liquor license fees with restaurants closed for a time and still operating at reduced capacity.

In addition, investment revenue is down with short-term interest rates in the financial markets hovering below 1%. “I don’t see the level of rates turning anytime soon,” Reilly says.

At the same time, cities’ expenses have climbed in the form of increased sanitizing supplies, signs, barriers, protective gear like masks, gloves, and plexiglass, and the expense of extra cleaning and sanitizing, plus technology to accommodate telework operations.

**Some relief from federal government**
To help with these added expenses, cities have been able to get some money from the federal Coronavirus Relief Fund (CRF), provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act passed in March. All Minnesota cities were eligible to receive $75.34 per capita by applying to the state or their county by Sept. 15.

The federal government provided strict guidelines on how the funds can be used. Eligible expenditures are those that are necessary due to COVID-19 and were not included in the most recently approved budget as of March 27. The funds cannot be used to replace revenue that was lost due to, for example, lower property tax collections. Expenses must be incurred between March 1 and Nov. 15, 2020.

Some examples of how cities can use the funds include building sanitation expenses, pandemic-related business subsidies, telework technology, virtual meeting technology, and city attorney costs for unbudgeted pandemic-related legal guidance.

“The CRF funding has helped soften the blow a bit,” Sova says. “But cities still have a long road to recovery ahead.”

League staff are working to convince Congress to provide more pandemic-related funding to cities and to allow already appropriated federal funds to be used for revenue replacement.

**Steps to ensure stability**
As the pandemic and resulting economic downturn continue, cities need to take steps to maintain their financial stability.

Heading into the downturn, Plymouth had prepared conservative budgets. The city is also maintaining healthy reserves of 40% and digging into long-term financial planning — honing its 10-year capital improvement plan and relying on a financial forecasting model.

“If you do dip into reserves — and most cities probably will — you have to have a plan to replenish those reserves,” Callister says. But it can be a multi-year plan, he says, adding that “you don’t have to do it overnight.”

(continued on page 10)
Cities would be well-served to reduce costs whenever possible and reevaluate projects, either delaying them or doing them sooner if they can be done at a lower cost now. Plymouth moved road improvement projects up to 2020 from 2021 because of the good bidding environment, and bids over the last few months have come in 15% to 20% below their engineer’s estimate.

Plymouth also isn’t automatically refilling positions. If an employee retires or quits, Callister considers whether filling it makes financial sense. Crucial for cities, he adds, is also to keep staff healthy so they can carry out operations.

MacGillivray suggests cities do financial forecasting out to 2023, considering the best-case, worst-case, and middle-of-the-road scenarios in terms of the virus’s possible course, revenue, and expenses.

“There’s uncertainty,” he says. “So, work out scenarios and what you’ll have to change organizationally to match the possible outcomes.”

Reilly adds that city leaders should “get a sense of what you can forgo, delay, or eliminate from your budget.” He recommends planning for at least three years and no more than 10.

“You lose a lot of visibility beyond five years,” he says. “Ask yourself, if we get a resurgence in infection rates, then what levers can I pull to retain financial flexibility without having to eat into my cash balances?”

**Communicating to the public**

As cities face inevitable challenges over the next few years, communicating with residents becomes more important than ever.

“Provide information clearly and frequently,” says Sova. “Sometimes it feels like you’re being repetitive, but transparency is very important so there aren’t any surprises.”

MacGillivray says to acknowledge that there will likely be service impacts because of the pandemic, including possible layoffs. Be candid, he says, and let residents know your policy options on both the expenditure and revenue sides of the budget.

“Planning is central to the whole recovery plan,” he says. “Have your top policy person out there preparing the community.”

“Also, increase your communication between staff and committees so they can get a sense of where things stand in real time,” adds Reilly. And when speaking to the public, “to the greatest extent possible, stick to the script,” he says, and end with next steps. “If you don’t set expectations, you create an information void.”

**Looking at the bright side**

Although the pandemic presents many challenges, the situation can also bring some opportunities. While low interest rates may not be great for investments, they can be helpful on the debt side. Cities with good credit ratings can issue debt of a decent size at a low interest rate, says MacGillivray, a positive in these trying times.

“Moving forward, there will be even more of a focus on credit quality and ratings driven by the socioeconomics of the city,” he says.

Reilly says contractors are hungry, and with the current low cost of oil, projects like paving roads could make good financial sense now, if a city can swing it. What’s more, prices may have dropped for land that cities were looking to acquire for redevelopment or future development.

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GreenStep Cities Celebrates 10 Years of Improving City Sustainability

BY MARY JANE SMETANKA

When Joy McKnight joined the Carver City Council last year, she knew residents were interested in sustainability. But in a town of roughly 5,000 people with a modest city staff, where would they find the resources to research and design a program to make the city more green?

Carver found help through Minnesota GreenStep Cities, a statewide voluntary challenge program that marks its 10th anniversary this year. Participants in the public-private partnership, which is administered by the Minnesota Pollution Control Agency, now includes 141 cities and tribal nations. Almost half of the state’s population lives in a community that participates in the GreenStep program.

Carver joined this year and is one of the program’s newest members.

“I’ve gotten positive feedback from residents who really want to know what the city is doing around sustainability,” says McKnight. “They want trails and parks, and they want us to be green. [The GreenStep Cities program] is a way for us to be transparent and let them know what we’re doing.”

Evolution of the program

Diana McKeown has worked with GreenStep Cities from the beginning and does outreach and education for the program in the Twin Cities area. McKeown, director of the Metro CERTs (Clean Energy Resource Teams) program at the Great Plains Institute, says that GreenStep Cities briefly focused on energy issues, but it quickly became clear that what cities really wanted was “a prescription for action” to build sustainability in many areas.

Today, GreenStep Cities offers a framework of 20 best practices in five categories: buildings and lighting, land use, transportation, environmental management, and resilient economic and community development. Cities are offered more than 170 possible strategies to increase sustainability, such as changing lighting in city buildings, minimizing stormwater runoff, and issuing conservation easements to preserve valued public land.

The recommendations get very specific, and the GreenStep website encourages cities to share and learn from each other. But it is up to local officials to decide what to do, how to do it, and how much money to spend on those efforts, if any. The program is free and only asks cities to declare their intentions to residents and work toward sustainable goals.

“The vision for GreenStep Cities is that sustainability becomes the norm,” McKeown says. “There are a lot of choices — you choose your own route, you choose your actions and your pace. It reinforces local control.”

The voluntary program is getting results. GreenStep calculates that enrolled cities have saved $8.3 million in annual energy costs, created more than 500 renewable energy sites, added more than 130 electric vehicle stations, and have more than 230 certified green buildings.

Guidance for cities

About half the participating cities are in the metro area, including St. Paul, but McKeown says that from the start, the focus was on helping small and medium-sized municipalities.

“Larger cities were big enough to do this on their own,” she says. Thirty-five percent of involved cities have fewer than 5,000 residents. The smallest GreenStep city is Hewitt, with a population of about 250. Because cities are so different, the choices of what actions to pursue is broad. (See more about small city participation on page 21.)

“It’s a homegrown program, based on best practices that have been tested by other Minnesota cities,” McKeown says.

Recently she’s seen an uptick in cities that are interested in drawing up climate action plans. Many added climate and energy goals to their recently completed 2040 comprehensive plans.

“Cities are where the rubber meets the road,” McKeown says. They’re seeing the effect of climate change, with stormwater systems that are overwhelmed by more frequent heavy rains. She believes visible changes like that will continue to drive interest in GreenStep Cities.

“I think the program will continue to grow, and we will be responsive as cities give us feedback on what they’re looking for and what they need,” she says. “This is really a pathway that cities can use so they don’t have to spend so much time figuring things out.”

Continuous improvement

Cities win recognition by progressing through five steps of increasingly challenging activities. While Step One consists of building community interest in sustainability and passing and publicizing a resolution to work toward GreenStep recognition, Step Four requires cities to start measuring their progress with data. Reaching Step Five means continuing to work on and do better on those measures in the following year.
“The emphasis is on continuous improvement,” McKeown says.
Cities can add GreenStep artwork and materials to their web pages and order GreenStep City road signs. The League of Minnesota Cities is one of the partner organizations, and participating cities are usually recognized at the League’s Annual Conference, although that was canceled this year due to the pandemic. (See the cities that made progress this year at [www.lmc.org/greenstep](http://www.lmc.org/greenstep).)

Reaching Step Five
Mahtomedi was a GreenStep pioneer, joining the program when it started in 2010. It is among 20 cities that have reached Step Five. The city of 8,000 people on the shores of White Bear Lake has a history of focusing on the environment. In 2006, it signed on to the U.S. Mayors Climate Protection Agreement and set up a city environmental commission.

“It was just a logical progression to join GreenStep Cities,” says Mahtomedi City Administrator Scott Neilson. He says the program helps the environmental commission set priorities and goals and measure progress.

Every chapter of Mahtomedi’s 2040 comprehensive plan incorporates sustainability into the discussion, whether it be about land use, transportation, or parks. For the first time, the comprehensive plan also includes a separate chapter on sustainability. The city promotes its environmental work in its bimonthly newsletter, and the GreenStep Cities road signs have attracted attention and questions, Neilson says.

One of the areas Mahtomedi has focused on is transportation. The city has worked toward completing a trail system to link it to others in the area, an initiative that’s popular with residents who want to make the city friendlier for walkers and bicyclists.

To meet the Step Five requirements, Mahtomedi documented how it added miles of trails, and how passing ordinances related to land use helped the city to do that. Other areas that were measured to reach Step Five included environmental management affecting open space and parks, as well as stormwater and wastewater initiatives.

Not all of those priorities will be finished quickly, Neilson says. Stormwater improvements will happen gradually as street projects are being done, but the city has done planning, set priorities, and committed resources to the effort.

He says it hasn’t always been easy to track and measure city strategies linked to sustainability. Gathering some of the information was challenging, involving the city Public Works Department and a consulting engineer.

“But the great thing about it now is that we have the information on spreadsheets, and we can refer back to it,” he says. “It’s an ongoing process. The council has been 100% behind it. We’re committed to sustainability, and this is a way to track it. People here want to improve the environment.”

Just getting started
Carver Councilmember McKnight learned about GreenStep Cities last year at the League’s Annual Conference. She saw people from other cities wearing GreenStep badges on their name tags and asked for details. She attended a session on cities that use solar power to reduce costs, looked at the GreenStep information, and discovered that several neighboring cities were already involved.

“I was impressed at the breadth of actions GreenStep Cities has available,” she says. “There were things I hadn’t thought about — how do we save water, how can we reduce office supply costs, how can we use lighting effectively in parks and fields?”

Cost was a concern, but it turns out money isn’t really an issue, McKnight says.

“This is not a big expense for us because we can leverage other cities’ experiences. It’s totally voluntary, there is no timeline, and it’s up to us if we want to spend on things or not,” she says.

“Really it’s not about spending, it’s about saving money and being efficient.”

As a brand-new member, Carver hasn’t set GreenStep goals yet, but McKnight hopes it will later this year. She says the program fits with the values and image that city officials want to project in a place that is still growing and attracting new residents.

“I think people today want to join a community that is a good place to live, has good schools and good parks,” McKnight says. “We want to be good stewards of taxpayer dollars and good stewards of the planet.”

Mary Jane Smetanka is a freelance writer.
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The COVID-19 pandemic will leave a permanent mark on the work world. No matter how soon a cure or vaccine is available, the way we work may be forever changed. The remote work environment is expected to be with us for some time, and that brings new complexity and new challenges.

For human resources (HR) and benefits managers, that means annual open enrollment might look very different in the fall of 2020. Happily, there is no need to start from scratch.

Many technology solutions in the market — some of which you may already own — counter the disruption caused by the pandemic and support remote enrollment. These include tools to communicate information, administer the enrollment process, and provide assistance for those who need it.

The following are solutions that can help public-sector employers manage short-term disruptions to their traditional open enrollment process. These same solutions, however, offer value that makes them worthy of adoption for the long term.

**Virtual benefits fair**
Many employers host benefit fairs in conjunction with open enrollment to educate employees about their health and welfare offerings and to provide carriers and vendors the opportunity to meet one-on-one with interested employees. Some employers have sought out technology-enabled replacements for the traditional live benefits fair. One relatively new option getting market traction is virtual benefit fairs, which take the concept of carrier booths, presentations, and meeting rooms into an online environment for one-time or ongoing use.

Because this technology is so new, no single provider dominates the market. Most platforms have a similar look and feel, with little user interface differentiation. Most operate with a scheduled “live event” model.

Factors to consider when shopping for a virtual benefits fair platform include security, employer’s responsibility for set-up and implementation, carrier support, real-time interactivity, on-demand capabilities, and provider experience with benefit programs similar in scope to yours.

**Decision support tools**
As benefits have expanded beyond core medical, and now include an array of voluntary benefits, there is a growing demand for decision support tools to help employees choose and use the benefits that best fit their specific needs and preferences. If you’re interested in adding decision support tools, start by talking to your carrier or benefits administration platform provider to see what they may offer.

A benefits consultant may also assist in identifying solutions to fit your needs and budget. While there is no hard data to substantiate the return on investment of these tools, the consensus among employers is that they add value through heightened employee satisfaction, reduced strain on HR, and the possibility for reduced health care costs for both the employer and the employee.

Multiple studies have shown that offering decision support tools for making health care decisions increases employee engagement and enrollment. Be sure to talk with your provider about data security and consult your legal counsel to determine appropriate (and inappropriate) use of employee information collected from decision support solutions and associated applications.

**Enrollment company**
For organizations still enrolling on paper, a shift to an online enrollment platform may be too big of a change in an environment where live training is not an option. For these employers (and employees who lack the necessary technology to participate in online enrollment), consider engaging an enrollment company to support employees through a call center.

The best services go beyond the basic enrollment function and help with employee engagement, communication, education, and analytics. Think of these providers as an extension of your HR team. Expect enrollment call centers to be offered in conjunction with voluntary benefits. The commissions associated with these benefit offerings typically cover the cost of the service.

**Next steps**
Benefits are an essential part of the overall employee experience and contribute to employee well-being. It logically follows, then, that a smooth and satisfactory benefits administration process is critical to your organization’s well-being.

Facilitating open enrollment in an unplanned remote environment presents several challenges. Implementing technology solutions to address those challenges will give you peace of mind that your employees understand their benefit options, are confident in their choices, and have options for assistance. Further, in these times where HR budgets may be under pressure, these same solutions deliver long-term value, so your investment will continue to pay off in a post-pandemic world.
As you likely know, rural Minnesota is represented overwhelmingly by Republican legislators. Alternatively, the first- and second-ring suburbs, along with Minneapolis and St. Paul, are represented overwhelmingly by Democratic-Farmer-Labor (DFL) legislators. This means that suburban voters in the second- and third-ring suburbs will largely determine the majorities in both the Senate and House.

Additionally, while the Legislature has a huge impact on local governments, many cities will be running the elections and will also have local candidates on the ballot.

Next year will bring a lot of new legislators
Even if the House majority remains DFL and the Senate majority remains Republican, we will have many new legislators. In the House, 16 legislators chose not to run again and announced their retirements. And four senators did the same. When the 2021 legislative session convenes, there will be a minimum of 20 new legislators, likely far more.

Building relationships continues to be critical
As always, connecting with your own legislators on a regular basis is a best practice. Your effectiveness and ability to receive assistance from legislators grows when you invest time in building these relationships. An easy thing to do right now is make a quick phone call or send a text or email. Reaching out to check in is always time well-spent.

Invite your local legislators to make a report at a city council meeting or invite them to a more casual work study meeting. These are excellent ways to grow your city’s ability to work together with your legislative delegation.

For city officials living through rapid change and disruption, it is nice to know that some things stay the same. It’s not easy, but your efforts in leading your communities through this time and continuing to provide key services and a high quality of life is much appreciated by your residents.

Autumn brings much needed downtime
Legislators, legislative staff, state agency commissioners and employees, Gov. Tim Walz, the governor’s staff, lobbyists, and all those who work at the Capitol need time to decompress and rest following the 2020 regular legislative session and special sessions.

This fall, everyone who works at the Capitol, including the amazing League of Minnesota Cities intergovernmental relations staff, will need to take breaks, spend time with their families, and recuperate. While incredibly responsive and knowledgeable, every player in the process needs some time to refuel.

Elections still matter to cities
As always, the fall elections will matter. The Senate majority is held by only a two-member margin. The House and Senate majorities are widely expected to be heavily influenced by how suburban Minnesotans vote.
Small-City Leader Makes Big Difference for All Cities

BY ANDREW TELLIJOHN

Ely City Councilmember Heidi Omerza has dedicated the last 13 years to improving not only her own city, but all Minnesota cities. She helped raise the profile of issues important to small communities, such as the expansion of high-speed internet. She took an interest in issues ranging from economic development to public health and tourism to good governance, going “all-in” for the betterment of cities, the state, and the League of Minnesota Cities. She traveled around the state and beyond, strengthening relationships and building a better understanding of the challenges of cities both large and small.

Statewide leadership

Omerza achieved these accomplishments and more by using her role on the Council of a small Northern Minnesota city of 3,400 to become a statewide leader. She was elected to the League of Minnesota Cities (LMC) Board of Directors in 2011. She also serves on the board of the Coalition of Greater Minnesota Cities (CGMC) and the board of CGMC’s economic development affiliate, the Greater Minnesota Partnership.

Omerza’s term on the LMC Board ended in June, after four years on the Executive Committee. She was the 2018-2019 president and just completed her year as immediate past president. Her nine-year term makes her one of the League’s longest-serving Board members. “She was all about making the League — and the cities that make up the League — better,” says Hopkins City Manager Mike Mornson, who was LMC president for 2019-2020 and is now immediate past president.

Always kind, but always heard

Mornson and others say Omerza is modest, creative in trying to get colleagues to think “outside the box” and, above all, civil in discussion. “She is a kind person,” Mornson says. “She was always out for what was best for the League.”

Elected to the Ely City Council in 2007, Omerza was on the committee that hired Harold Langowski, Ely’s city clerk and treasurer. He considers her a friend and has great confidence in her decision making. “We may not always agree, but she certainly listens and understands where I am coming from,” Langowski says. “I think that is very valuable in today’s divisive atmosphere.”

League Executive Director David Unmacht marvels at Omerza’s willingness to travel almost anywhere, despite living in one of the state’s most northern points. “That dedication, simply by virtue of geography, is indicative of her support,” he says.

Whether it was broadband expansion or economic development, Omerza was great at ensuring that issues facing small towns, which make up nearly 80% of the League’s membership, were top of mind. “The majority of our cities are small,” Unmacht says. “Heidi made sure we remembered that.”

She excelled at building relationships, not only in Minnesota, but nationally via involvement in the National League of Cities. “She’s on a first-name basis with leaders across the country,” Unmacht says. “She helped establish our League as one of the top leagues in the country. Heidi was one of those connectors.”

A voice for Ely

Omerza has lived in St. Paul, Brooklyn Park, Pine City, Blue Earth, and Mahomet. She was eager to serve and, she says, that variety of home fronts helped. “I have experienced a lot of different places around the state,” she says. “When people tell me what’s going on, I have a perspective of it. It’s not coming from left field.”

She doesn’t seek praise for anything she and her colleagues achieved, though she acknowledges pride in the relatively seamless transition when LMC Executive Director Jim Miller retired after 22 years, and Unmacht took over leading the League in 2015.

Primarily, she just wanted to make sure Ely was heard. “It’s important to have a place at the table,” Omerza says. “I thought it was important that someone from Ely had an opportunity, that we took advantage of it.”

She’s aware of her reputation for being outspoken but says she tries to be collegial, as well. “I just feel like I am saying my piece,” she quips. “Sometimes I say it nicely. Other times I just know I’m right, so I say it. I just say it with a smile on my face.”

Example for her daughter

Her children inspire her involvement. She wants to instill in her daughter and three sons the importance of serving and making a difference. It was while pregnant with her daughter, Elizabeth, that she realized there were no women or people with children on the Ely City Council. “I was the first female on the Council in a long time,” she says. “A lot of my drive has to do with being the right example for my daughter and making sure that my segment of the population — people who have children going through the school district — have a voice.”

Andrew Tellijohn is a freelance writer.
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One Watershed One Plan: A Local Level Perspective

BY AMY DENZ AND TARA OSTENDORF

Is your city planning a water project or needing to evaluate some of its water resources? Then you might want to check into getting involved with the state’s One Watershed One Plan program (1W1P).

What is the One Watershed One Plan program?
A voluntary planning program, 1W1P was developed through the Minnesota Board of Water & Soil Resources (BWSR). The goal is to transition water planning across the state of Minnesota to a watershed scale instead of along county boundaries, which is currently how many non-metro water plans are developed and implemented.

Water resources flow within the natural boundaries of a watershed rather than the political boundaries established for the 87 counties in Minnesota. The 1W1P process is intended to be a collaborative effort involving cities, counties, county soil and water conservation districts (SWCDs), watershed districts, and other interested parties within each watershed. The intention is to create a systematic, watershed-wide, science-based approach to watershed management that would be implemented through partnerships at the local level.

As part of the 1W1P process, partners entering into a planning agreement (typically county SWCD boards, watershed district boards, and county boards) will develop a list of water resource concerns for evaluation. This list may include lakes, streams, rivers, and other water resources they feel should be a main focus within the 10-year time frame of the plan. It will also include a list of potential projects they want to include in the plan, either for future funding priority, focus for complementary projects, or for further evaluation.

The plan typically references all regulatory mechanisms that are available to implement programs and actions to meet identified plan goals. Plan development is usually led by a designated partner, such as a watershed district or SWCD, and facilitated and prepared by an outside consultant. Public input is encouraged, including invitations to all the cities within the defined planning area (i.e., watershed) requesting comments, concerns, and projects for consideration in the plan.

Why should a city participate?
It is in a city’s best interest to consider the concerns, high-value resources (including lakes, streams, drinking water, stormwater, wastewater, etc.), and large capital projects they may want to evaluate as part of the 1W1P process for developing actions, goals, and potential funding sources in the future.

Many competitive grant funding opportunities require references to a local comprehensive plan, and it would be in a city’s interest to identify any current or future actions or projects for which they may seek funding or technical assistance.

In addition, the 1W1P program also currently provides a dedicated level of funding for watersheds with an approved plan. These funds are allocated biennially through the Legislature and can be used to fund actions included in the plan.

Items to consider submitting to the planning partnership include:

- Land use plan, controls, or city ordinances that are unique to your watershed or water resources in your community.
- Special projects or plans the city may be considering (such as stormwater/wastewater facility investments and expansions).
- Plans to be developed or already available (like wellhead protection plans).
- Data needed for future evaluation (such as well inventories, stormwater facility inventories, drinking water information, groundwater information).
- Major road reconstruction plans or development/redevelopment plans that may provide an opportunity for plan connections.

- Natural resources that should be protected (like a specific lake, stream, wetland, groundwater/dinking water source).

The city will have an opportunity to be involved in the planning process through comment requests at the beginning of the process, as well as during review of the plan draft before BWSR approval. The city also has an opportunity to become more involved, if inclined, by volunteering to participate in the advisory committee or other committees, depending on the framework of the partnership.

While participating in the 1W1P program may be advantageous to many cities, those cities with municipal separate storm sewer system (MS4) permits should consider how this planning tool interacts with requirements of that permit.

Is implementation funding available to cities?
There have been 12 plans completed statewide, with several nearing completion and others just getting started. This means there are opportunities to participate in planning, but also opportunities to begin implementation of projects identified in the plans.

The Clean Water Fund Watershed-Based Implementation Program through BWSR will provide dedicated funding to be used specifically for advancing water resource goals identified in 1W1Ps through prioritized, targeted, and cost-effective actions that have measurable water quality results. A local government is eligible for this dedicated funding if it has entered into an implementation agreement with other members of the planning partnership.

Amy Denz is environmental group leader, and Tara Ostendorf is water resources coordinator with Moore Engineering Inc. (www.mooreengineeringinc.com). Moore Engineering is a member of the League’s Business Leadership Council (www.lmc.org/sponsors).
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A group from the City of Warren visited Germany in 2016 as part of the Climate Smart Municipalities program and returned with the knowledge that there is little to no use of Styrofoam, plastic, or paper plates there. The city quickly eliminated those same products in its own buildings and found, in addition to reducing its garbage output, it saved $1,200 a year. “That’s $1,200 we can use somewhere else,” says Shannon Mortenson, city administrator of Warren (population 1,596).

Other sustainable projects in Warren include the institution of mandatory curbside recycling, the conversion to LED streetlights, and, more recently, through a partnership with Northland Community and Technical College, the deployment of drones to conduct thermal imaging surveys on public buildings and residences to help identify and fix efficiency issues. The city has found that environmental projects have garnered the most support when touted along with ways residents might benefit financially. “I think that’s why we’ve been pretty successful,” Mortenson says.

Small projects make impact
Warren is just one of many small cities in Minnesota that have found ways to be more environmentally conscious, even with few resources and a small staff. Mahnomen (population 1,228), located on the White Earth Reservation in the northwestern part of the state, also has a strong focus on sustainability. The city has converted its streetlights to LED, and leaders are talking with the tribal nation about instituting a solar power program that could benefit both, says City Administrator Mitch Berg. Berg says a smaller tax base limits the city to smaller projects, but the benefits can still add up. For example, replacing existing municipal building roofs with white roofs can reduce insulation, heating, and electrical costs by allowing those buildings to deflect sunlight.

Mahnomen has also partnered with Otter Tail Power and the Minnesota Retiree Environmental Technical Assistance Program to get an energy audit to find out other areas it can improve.

Climate Inheritance Resolution
Another city with a rich sustainability history is Grand Marais (population 1,410). Mayor Jay Arrowsmith DeCoux says the city took its first step in the early 2000s when Cook County developed a local energy plan. In 2018, a group of area young people lobbied the city to adopt a Climate Inheritance Resolution, acknowledging its responsibility to develop a plan to lessen its environmental impact. “That was pretty impactful,” Arrowsmith DeCoux says. “It was a powerful presentation. The city has acknowledged that we have a responsibility to pursue how to be responsible for our energy use.”

MN GreenStep Cities can help
Small cities that want to increase their environmental efforts may find it helpful to join the Minnesota GreenStep Cities program, which is a public-private partnership administered by the Minnesota Pollution Control Agency and involving several partner organizations, including the League of Minnesota Cities. GreenStep is celebrating its 10th anniversary this year. (Read more about GreenStep on page 12.) Grand Marais has been a member since 2014, but in the two years since passing the resolution, the city has ramped up its efforts. The city now has a climate action coordinator, and it has completed assessments on its buildings and established policies requiring energy efficiency standards to be met in future construction. “We’re trying to do as much as we can, starting where we are,” DeCoux says, adding that it’s helpful to have the GreenStep framework and examples from other GreenStep members.

Raising awareness is first step
One of GreenStep Cities’ newest members is Hackensack, population 320. Gary Dietrich, Hackensack’s volunteer GreenStep coordinator, says he is trying to build community support around issues such as solar power and electric vehicle charging stations. Dietrich believes such enhancements to the city would make it an even more appealing destination for tourism, and he’s hopeful some of the tools available through GreenStep will help with those efforts. “We have to build awareness, build something that is going to keep people engaged,” he says, adding that the county already has many environmentally friendly buildings but little publicity surrounding them.

Kristin Mroz, local government coordinator with the Minnesota Environmental Quality Board and co-director of the GreenStep program, says she’d like to see more small cities join. GreenStep offers helpful resources and can connect small cities with other cities that have done the types of projects they’re interested in doing. In addition, GreenStep imposes no requirements, and it offers some tremendous potential benefits, such as the ability to participate in pilot programs and financing opportunities. “We work to make [the program] available and user-friendly,” Mroz says. For small cities, partnerships are key. “A lot of our smaller communities have built really good relationships with citizen volunteers,” Mroz says. “They understand the need for finding resources available to them outside their own capacity.”

Andrew Tellijohn is a freelance writer.
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Variances and Nonconformities: Understanding Land Use Terms

BY RACHEL CARLSON AND JED BURKETT

Land use decisions can feel particularly difficult for city officials, often because of the personal dimension. While many city decisions — such as property tax rates and new ordinances — apply to the city as a whole, land use decisions often apply to only a few people, usually a single property owner and his or her neighbors. Perhaps this is why such decisions can get so contentious.

Two particularly difficult concepts are variances and nonconforming uses. The more you understand about them the more comfortable you’ll feel making decisions.

Understanding variances

When landowners request a variance, it is usually because they have encountered a problem with a building project. The project they envision does not fit the limits of the land they own. For example, a deck project encroaches on a required setback from neighboring property.

A variance is a way that a city may allow an exception to part of a zoning ordinance. It is a permitted departure from strict enforcement of the ordinance as applied to a particular piece of property. A variance is generally for a dimensional standard (such as setbacks or height limits).

Landowners will sometimes seek a variance to allow for a particular use of their property that would otherwise not be permitted by the city’s zoning ordinance. For example, they would like to run a manufacturing operation in their home garage in an area that is zoned strictly residential.

Such variances are often called “use variances” and are not generally allowed in Minnesota. State law prohibits a city from permitting by variance any use that is not permitted under the ordinance for the zoning district where the property is located.

Three-factor test

Provided that the requested variance is not a use variance, what is the standard the city must use to evaluate the landowner’s application? A variance may be granted if the landowner can satisfy a three-factor “practical difficulties” test. These three factors are:

- **Reasonableness**: Will the variance allow the property owner to use the property in a reasonable manner?
- **Uniqueness**: Is the variance necessary because of circumstances unique to the property (not caused by the landowner)? For example, does a steep slope prevent usual setbacks?
- **Essential character**: Will the variance alter the essential character of the locality? For example, will the resulting structure be out of scale, out of place, or otherwise inconsistent with the surrounding area?

If the applicant does not meet all three factors of the statutory test, then a variance should not be granted. Finally, even if the practical difficulties test is met, variances are only permitted when they are in harmony with the general purposes and intent of the ordinance, and when the terms of the variance are consistent with the comprehensive plan.

Understanding nonconformities

Communities and their land use ordinances change over time. As a result, landowners may find themselves with structures or lots that no longer meet current ordinance requirements. For example, a lake home built in the 1950s might not conform to current setback requirements from the shoreline. These are considered “legal nonconformities.”

Properties with legal nonconformities may be bought and sold, with each new property owner allowed to continue on as before. Property owners may also repair, replace, restore, maintain, and improve their nonconformities. However, expansion is not protected — which is often how nonconformities end up as an issue before city councils.

State statute does not define “expansion,” so many cities choose to define the term in local ordinance. Expansion of a nonconforming use could refer to physical expansion or intensification of use.

An expansion of a nonconforming use is often a chance for the city to bring the use into conformance with current city ordinance — frequently by granting a variance, as discussed above.

When granting a variance (in all circumstances, not only nonconforming uses), conditions may be attached. Conditions must be related to an impact created by the variance. For example, requiring the planting of privacy trees where a setback is encroached upon.

As a city official, making difficult land use decisions can be helped by a familiarity with the law and its requirements. A solid foundation in land use concepts can change what feels like a personal decision about an individual property owner’s request into a formal, factual evaluation of whether or not the property owner meets required legal standards.

Rachel Carlson is loss control manager and Jed Burkett is loss control/land use attorney with the League of Minnesota Cities. Contact Carlson: rcarlson@lmc.org or (651) 281-1210. Contact Burkett: jburkett@lmc.org or (651) 281-1247.
MN Supreme Court Upholds City’s Sick and Safe Time Ordinance

Employment Law

Paid sick and safe leave
The Minnesota Chamber of Commerce sued the City of Minneapolis, claiming that state law conflicts with and impliedly preempts its Sick and Safe Time Ordinance, and that the ordinance exceeds the city’s territorial authority because it regulates employers located outside its boundaries. The ordinance generally requires employers to allow their employees who work at least 80 hours per year in the city to accrue paid sick and safe leave (only for hours they have worked in the city) and to use accrued sick and safe leave (only for hours they are scheduled to work in the city). The district court ruled that state law does not conflict with or preempt the ordinance, but it concluded that the ordinance has an impermissible extraterritorial effect. Therefore, the district court issued an order prohibiting the ordinance’s enforcement against employers located outside the City of Minneapolis.

The Court of Appeals affirmed the district court’s decision in part and reversed it in part, ruling that state law does not conflict with or preempt the ordinance, and that the ordinance does not have an impermissible extraterritorial effect. The Minnesota Supreme Court affirmed the Court of Appeals’ decision. The Supreme Court concluded that state law does not preempt the ordinance, reasoning that there is no irreconcilable conflict between the two, and that state law leaves room for municipal regulation. The Supreme Court also held that the ordinance does not have an impermissible extraterritorial effect because its primary purpose and effect is to regulate sick and safe leave for employees who work within the city’s geographic limits. Minnesota Chamber of Commerce v. City of Minneapolis, N.W.2d (Minn. 2020). Note: The League of Minnesota Cities filed an amicus curiae brief in the city’s support.

Sexual harassment
Assata Kenneh, a former employee for Homeward Bound, Inc., sued the company, claiming that maintenance coordinator Anthony Johnson sexually harassed her by making repeated sexually suggestive comments and gestures to her. She also claimed that Johnson continued the conduct after he was told to stop and had received training on sexual harassment prevention. The district court granted summary judgment (court-ordered judgment without a trial) to Homeward Bound, stressing “the high bar” that Minnesota courts have set for what qualifies as sexual harassment in the workplace, and noting that the alleged conduct, “however objectionable,” did not give rise to employer liability under the Minnesota Human Rights Act (MHRA).

The Minnesota Court of Appeals affirmed the district court’s decision. The Minnesota Supreme Court reversed the Court of Appeals’ decision and sent the case back to the district court for additional proceedings. The Supreme Court affirmed that the “severe-or-pervasive standard” from federal cases under Title VII of the Civil Rights Act is also the governing standard under the MHRA. But the Supreme Court emphasized that this does not mean that Minnesota courts are bound by the previous conclusions drawn by federal or Minnesota courts in applying the severe-or-pervasive framework. Rather, the Supreme Court reasoned, “the standard must evolve to reflect changes in societal attitudes towards what is acceptable behavior in the workplace.”

The Supreme Court instructed that courts and juries “should not carve the work environment into a series of discrete incidents and then measure the harm occurring in each episode,” but should instead, “consider the totality of the circumstances, including the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee’s work performance.” The Supreme Court emphasized that this was generally to be a determination made by a jury, and explicitly cautioned courts against taking the place of a jury when evaluating a claim on summary judgment. Kenneh v. Homeward Bound, Inc., N.W.2d (Minn. 2020).

Criminal Law

Hotel registration records
John Thomas Leonard appealed his check forgery convictions, which were based on evidence that City of Bloomington police officers had seized from his hotel room after they obtained Leonard’s identifying information from hotel registration records. Leonard claimed that the search of the registration records was unconstitutional because it violated his Fourth Amendment right to be free from warrantless searches. Hotel operators are required under Minnesota Statutes, section 327.12 to maintain registration records for hotel guests and to make them “open to the inspection of all law enforcement.”
The Minnesota Court of Appeals held that the search of the registration records was constitutional, concluding that a hotel guest has no reasonable expectation of privacy in identifying information that the guest voluntarily reveals to a hotel operator for purposes of renting a hotel room. The Minnesota Supreme Court, in a divided decision, reversed the Court of Appeals’ decision. The Supreme Court ruled that, under the Minnesota Constitution, a hotel guest has a reasonable expectation of privacy in sensitive location information found in a hotel guest registry. The Supreme Court also ruled that the government inspection of a hotel guest registry is a search, and that law enforcement officers must have at least a reasonable, articulable suspicion of criminal activity to search a hotel guest registry. The Supreme Court remanded the case to the district court for additional proceedings consistent with its conclusion that the evidence found in the hotel room could not be used in the criminal proceeding against Leonard because it was discovered as the result of an unconstitutional search. State v. Leonard, 943 N.W.2d 149 (Minn. 2020).

Leonard claimed that the search of the registration records was unconstitutional because it violated his Fourth Amendment right to be free from warrantless searches.

Annexation by ordinance
In May 2018, the City of Bemidji accepted a property owner’s petition requesting the city to adopt an ordinance annexing his 14-acre parcel of property in Bemidji Township. The statute that authorizes annexation by ordinance (Minnesota Statutes, section 414.033, subdivision 2) provides a streamlined procedure for annexations that meets specific statutory criteria. The city held a public hearing, as the statute requires, and the township’s objection to the proposed annexation was noted.

In June 2018, the city adopted an ordinance that annexed the property. The township filed a lawsuit in district court, claiming that the state Office of Administrative Hearings (OAH) should have conducted an evidentiary hearing and should have evaluated policy considerations to determine whether to approve the annexation. The OAH determined that its review of an annexation by ordinance is limited to determining whether the proposed annexation (continued on page 26)
satisfies the statutory requirements. The district court affirmed the OAH’s decision.

The Minnesota Court of Appeals affirmed the district court’s decision and ruled that the OAH’s review of an annexation by ordinance is limited to determining whether the city has satisfied the conditions and procedural requirements in the statute. The Court of Appeals also noted that it was undisputed that the property at issue here does meet these statutory criteria. In re Annexation of Real Property to City of Bemidji from Bemidji Township, N.W.2d (Minn. Ct. App. 2020).

EMPLOYMENT LAW

Gender and sexual orientation

Title VII of the federal Civil Rights Act bans employment discrimination “based on sex.” Courts throughout the United States have reached different conclusions about whether this ban protects gay, lesbian, and transgender employees. The United States Supreme Court considered this question in three different lawsuits. Donald Zarda, a skydiving instructor, and Gerald Bostock, a child welfare services coordinator, filed lawsuits in federal court alleging that they were fired because they were gay, which violated Title VII. In Zarda’s case, the 2nd U.S. Circuit Court of Appeals concluded that Title VII bars discrimination against gay employees. The 11th U.S. Circuit Court of Appeals came to the opposite conclusion in Bostock’s case.

The Equal Employment Opportunity Commission filed the third lawsuit, involving the rights of a transgender employee, Aimee Stephens. R.G. & G.R. Harris Funeral Homes fired Stephens, a funeral director and embalmer, after she announced that she would begin living as a woman. The 6th U.S. Circuit Court of Appeals concluded that Title VII bars discrimination against transgender employees. The U.S. Supreme Court, by a 6-3 vote, ruled that even if Congress may not have had discrimination based on sexual orientation or transgender status in mind when it enacted the landmark law over a half century ago, Title VII’s ban on discrimination based on sex protects gay, lesbian, and transgender employees. The Supreme Court reasoned that “discrimination based on homosexuality or transgender status necessarily entails discrimination based on sex.” Bostock v. Clayton County, GA, S.Ct. (2020).

Written by Susan Naughton, research attorney with the League of Minnesota Cities. Contact: snaughto@lmc.org or (651) 281-1232.
Can Cities Regulate the Use of Snowmobiles?

Snowmobile Regulation

Q With winter on its way, what authority does a city have to place restrictions on the use of snowmobiles within city limits? Also, can a city require a driver's license to operate a snowmobile?

LMC While the registration and use of snowmobiles are extensively regulated in state law, cities do have authority to regulate the operation of snowmobiles on public lands, waters, and property within city limits by resolution or ordinance. Additionally, cities may pass an ordinance allowing two-way operation of snowmobiles on either side of the right of way of a street or highway under city jurisdiction. This can be done if the city, as road authority, determines that two-way operation will not endanger users of the street or highway or riders of the snowmobile using the trail.

Regarding whether cities can require those driving snowmobiles to possess a driver's license while operating a snowmobile, the answer is no. Under state law, a city cannot require that an operator of a snowmobile possess a driver's license. Additionally, cities are not authorized to license snowmobiles. To learn more about snowmobile regulations, see the LMC information memo at www.lmc.org/special-vehicles.

Answered by Research Attorney Jacob Glass: jglass@lmc.org

Employment of Veterans

Q Our city may have to lay off a veteran due to loss of revenue associated with the pandemic. What rights does the veteran have?

LMC Veterans are not given the same rights in a layoff situation as they are in a termination decision, as long as the layoff is being done in “good faith.” To determine a good-faith layoff, the city needs to ask:

- Are the job duties eliminated or reassigned?
- If reassigned, are they assigned to a nonveteran employee who has less seniority than the veteran?
- Is the position being abolished for a legitimate purpose or as a strategy to terminate the veteran?

Unlike other types of terminations of veterans, the city does not need to pay the veteran his or her regular wages during the 30-day period after the notice of layoff. If the veteran successfully challenges the layoff as not being a good-faith elimination of a position, however, the city may run the risk of an award of back pay.

The city should not expect to rehire for an eliminated position anytime soon, as this action would likely cause suspicion about the city's motives for reorganization. To learn more about this topic, see the LMC information memo at www.lmc.org/vetsdiscipline.

Answered by Human Resources Director Laura Kushner: lkushner@lmc.org

Waivers and COVID-19

Q Our city asks people to sign a waiver when participating in a city program or using a city facility. Should we include specific COVID-19 language in the waiver?

LMC Waivers are never required, but cities can use them to provide some additional liability protection when people are participating in city programs or using city facilities. While the language in many waivers may be broad enough to cover COVID-19 claims, the League recommends using specific COVID-19 language in light of the current coronavirus pandemic. Waivers must be carefully drafted to avoid being overbroad. Cities cannot require people to waive “any and all claims.” There must be an exception for claims caused by the “willful, wanton, or intentional misconduct” of the city. Adding COVID-19 language can also help the city establish an assumption of risk defense. A sample parks and recreation waiver with COVID-19 language is available at www.lmc.org/waiver-covid.

Answered by Risk Management Attorney Chris Smith: csmith@lmc.org
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Victoria Website Redesign Improves User and Staff Experience

BY GWEN CAMPBELL AND HOLLY KAUFHOLD

Our city website is often the first introduction people get to the City of Victoria and, by 2018, we realized it was not serving our community well and was in dire need of an overhaul.

It was visually outdated and built on an old platform, limiting design and site structure options. In addition, we didn’t have specific staff members responsible for website maintenance, and staff turnover resulted in a lack of understanding of the site structure and functionality.

Over time, the site had developed several problems, including broken links, confusing navigation, and excessive links needed to reach desired information.

Redesign goals
So, we decided to redesign the website with two major goals in mind. We sought to improve both ease of access for users — direct links to popular pages, simplified menus, and less clutter — and ease of maintenance for staff.

The new home page helped improve the user experience, providing several features to speed users to their destination:

► Six large icon buttons, linked to the most frequently visited pages, are prominently displayed near the top of the page. These buttons also display at the bottom of most interior pages, just above page footers.
► The large Search bar is highly visible, making it easy for users to search with keywords.
► “I Want To” is a handy feature for users to perform common actions such as applying for a permit or paying a utility bill.
► “Newsflash & Events” remains on the home page, with visual clues added. The community events and government meetings are listed on one calendar in that section.
► Also, the most popular site section, Parks and Recreation, now has its own landing page with direct links to park information, recreation program registration, and more, reducing the number of clicks. There is also an icon button on the home page that links to the Parks and Recreation landing page, making it easy to navigate to.

The new platform and streamlined menu structure make for a better experience not only for users but also for staff charged with site maintenance. The new site is easier to maintain because the content management system is more intuitive and flexible.

We also now have two staff members who serve as site administrators. One is the site manager, the other manages the Parks and Recreation pages, and they back each other up as needed.

Redesign process
For the website redesign, we decided to stick with our current web provider, CivicPlus. They created the project plan and did the technical development, and city staff made implementation decisions and wrote content.

We looked at CivicPlus’ recently designed websites for public agencies and those of local jurisdictions to identify the elements we liked and didn’t like. After reviewing website best practices and our own site analytics, we presented global navigation and mega-menus to city management and key internal users for their input. CivicPlus designed the visual and structural layout, modifying the final design based on our feedback.

We hired a professional photographer to build a photo library for our website and other communications vehicles.

Accessibility for people with disabilities was another essential component of our redesign. Accessibility features are integrated into our vendor’s platform, and we learned how to support accessibility in administering a dynamic site.

The results
Since we launched our new site in March 2019, website analytics show improved ease of user access. Overall, site traffic has increased 19%.

We tackled the main source of excessive clicks by creating the Parks and Recreation landing page. On the old site, there were 18 most frequently used pages, eight of which were for Parks and Recreation, but only 12% of site visitors navigated directly to those pages. On the redesigned site, 56% of site visitors navigate directly to Parks and Recreation.

The new site is also more dynamic. We are able to easily fix problems and evaluate new ideas to determine if they are appropriate and fit within the site structure.

The city has received great feedback about the new site from councilmembers, residents, and others. In addition, the website won a 2020 Northern Lights Award from the Minnesota Association of Government Communicators. You can visit the site at www.ci.victoria.mn.us.

Gwen Campbell is communications and human resources manager and Holly Kaufhold is parks and recreation supervisor with the City of Victoria.
City of Northfield Makes Race Equity a Priority

BY DEBORAH LYNN BLUMBERG

Aft er the death of George Floyd and the ensuing protests, many cities have doubled down on efforts to ensure people of color are treated fairly in their communities. But for some cities, like Northfield, race equity efforts have been underway for years.

From communitywide learning sessions to specialized staff trainings, Northfield over the last few years has instituted a variety of programs and policies designed to make the city a more inclusive place. Currently, people of color make up around 14% of the city’s population, says Northfield Program Coordinator Beth Kallestad, who was hired to manage the city’s race equity efforts.

In the last few decades, more Latino immigrants have moved to the Greater Minnesota community. And in the last few years, African immigrants, mostly from Kenya, have also come to town. In addition, Northfield is home to Carleton College and St. Olaf College, which attract students and faculty from around the globe.

“Leadership from City Council has really helped by putting the dollars and the resources behind implementing race equity initiatives,” says City Administrator Ben Martig. “Making it a strategic priority helped push us into action, and the GARE training and having staff dedicated to it have been key. We want to be a city that’s welcoming to all.”

Valuable training programs

Northfield’s race equity efforts kicked into high gear in 2017 when the City Council developed its 2018-2020 strategic plan and committed to making diversity, equity, and inclusion one of its top priorities. A major goal was to increase diversity among city staff and the nearly 200 members of the city’s 17 volunteer boards and commissions.

Soon after adopting the strategic plan, a cohort of Northfield employees signed up for a year-long race equity training program run by the Government Alliance for Race and Equity (GARE) in partnership with the League of Minnesota Cities. With lessons, exercises, and resources, the program prepares attendees to create a race equity action plan for their city.

“Leadership from City Council has really helped by putting the dollars and the resources behind implementing race equity initiatives,” says City Administrator Ben Martig. “Making it a strategic priority helped push us into action, and the GARE training and having staff dedicated to it have been key. We want to be a city that’s welcoming to all.”

But as the strategic plan was coming together, Northfield still didn’t have a staff member dedicated to working on inclusion. That’s where Kallestad comes in. She was hired in 2019 and currently dedicates around a quarter of her time to race equity issues and the rest to climate change. The two issues are related in many ways, including the fact that climate change disproportionately affects people of color.

With Kallestad’s help, Northfield formed a Racial Equity Core Team made up of nine city staff members, including front-line service workers such as an employee in the city’s motor vehicle office, the manager of the city’s liquor store, and the city’s deputy police chief.

“Without someone to keep pushing these efforts, it doesn’t translate into a lot of action,” Kallestad says.

The Racial Equity Core Team meets once a month to work on fine-tuning a draft race equity action plan for Northfield that Kallestad prepared using materials from GARE. Since March, team members have worked virtually on the plan, which was passed by the City Council in July.

To help diversify its boards and commissions, the city also created the Growing Local: Northfield Emerging Leaders program. Community members can apply for the four-month program, which is held in partnership with the University of Minnesota Extension, Leadership & Civic Engagement program and includes monthly leadership classes. Each member of the program’s first 15-person cohort — the majority of whom are people of color — was also paired with a coach, a community member who has board experience.
“The feedback has been positive, and we hope to continue into the future,” says Kallestad.

**Leading conversations about race**

Northfield also plans to train employees on implicit bias, a topic that volunteer board members recently heard a presentation on.

“We want people to understand the historical context around race and equity issues, and implicit and explicit bias,” says Kallestad. “There’s individual bias and institutional bias.”

It is important for staff to understand how their daily work and the services the city provides play into that, and what changes need to be made, she adds.

Northfield also works with community partner Northfield Healthy Community Initiative (HCI) to ensure the city’s job descriptions and hiring interviews are inclusive, says Northfield Communications and Human Resources Director Michelle Mahowald.

“We’ve advanced,” Mahowald says. “It’s a lot of hard work, and it has to be intentional every single day.”

The city started a book discussion group for all staff members as well. Most recently, staff read *A Good Time for the Truth: Race in Minnesota*, a collection of stories from Minnesota writers on what it’s like to live as a person of color in Minnesota. Kallestad facilitated a virtual conversation about the book.

“We wanted to start getting everyone comfortable with having these conversations about race and learning more about experiences beyond our own,” she says.

In addition, Northfield runs a yearly themed community reading program, Northfield Reads, for all residents. Led by a group of volunteers, the program features a book club and a speaker series. Past years focused on topics like climate change. In 2019, diversity was the focus.

**A community for everyone**

The city library has also taken major strides toward making service more inclusive in the last two years. The library hired a bilingual outreach coordinator who’s created new programming such as bilingual story times and bilingual bookmobile outreach story times, Hispanic Heritage Month celebrations, a Spanish language book club, free Spanish language notary services, and computer literacy classes in Spanish.

“Our library has really transformed in the past few years,” Martig says. “We’re seeing more people of color there, which is reflective of our community.”

The library has become a true community hub for residents, where they not only come to browse books, but also to partake in the rich programming, to apply for jobs online, and to connect with resources for help with food or housing.

The library’s mobile bus now delivers books to areas with a higher concentration of people of color. The effort has been especially successful with the new bilingual outreach coordinator on board. “Having language not be a barrier has really helped,” Martig says.

The library also creates and distributes a monthly newsletter in both English and Spanish that provides information on city and state resources and important events. Before, the city produced the newsletter along with a nonprofit partner, Martig says. But bringing it in-house has made it more substantial and vibrant.

The library runs Northfield’s new city ID card program as well, which makes identification cards available to all community members. It also serves as a library card. “For our immigrant community, it’s very challenging at times not to have [an ID card],” says Martig.

Northfield saw other communities across the U.S. creating ID cards for people who, for whatever reason, could not qualify to get a driver’s license. City officials liked the idea of having an ID card for Northfield as yet another way to promote inclusion.

“It establishes that Northfield is a community for everyone,” Kallestad says. There has been great interest in the cards, she says, and local businesses extended coupons to those who applied for and received a card.

To get the card, applicants must provide proof of residence and identity. Northfield worked with local banks to promote the card. “It’s been meaningful,” Martig says.

**Ongoing inclusion efforts**

More comprehensive translation services are another key component of Northfield’s racial equity efforts. “We’re being more intentional about what gets translated and when,” says Kallestad, including city signs and emergency notices.

Northfield contracts with a company that provides translation services over the phone in around 200 languages. The Police Department started using the service, and it’s since expanded to all city departments.

The Police Department has been proactive in other ways as well. Officers helped promote the city’s ID card among Latino residents during visits to local churches. The talks helped community members get to know officers and feel more comfortable with the police.

Police Chief Monte Nelson, who retired in July, and Deputy Chief Mark Elliott held a virtual meeting last summer for Latino residents to meet the incoming chief and ask questions. Those types of conversations are crucial now, Nelson says, as some people feel more nervous about police interactions after the death of Floyd.

During his tenure, Nelson also helped increase the number of Latino officers to two on the department’s force of 24. “Our goal is to continue to increase gender and minority diversity,” he says.

Of Northfield’s overall staff, around 4% are now people of color. It’s a number that Martig hopes will continue to grow, especially as the city’s race equity plan takes off.

“We’re committed to this and we really want to build in structural changes,” Martig says. “It’s a process that takes time. There’s a lot more work ahead of us.”

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