

Celebrating
100
Years

Kansas

GOVERNMENT JOURNAL

VOLUME 100-NUMBER 6

JUNE 2014

Inside:
2014 Legislative Wrap-Up
Making Good Decisions
Continuous Improvement & Innovation

League Policy Committees Are Now Forming

What is a Policy Committee?

League Policy Committees help to establish the policies that guide the organization's legislative efforts. See below for a detailed description of each committee.

Who Can Join?

Any city official is eligible to serve on a single policy committee.

When do Policy Committees Meet?

Policy Committees meet three times annually; August, October in conjunction with the Annual Conference, and February as part of City Hall Day.

Need More Information?

Contact Nicole Proulx Aiken at (785) 354-9565 or naiken@lkm.org and Erik Sartorius at (785) 354-9565 or esartorius@lkm.org

Finance & Taxation - August 12

This committee reviews and recommends League positions on finance & taxation issues, including local option taxes, property tax lid, tax exemptions, motor vehicle tax, etc.

Public Officers & Employees - August 14

This committee reviews and recommends League positions dealing with a range of employment matters, including wage and hour laws, unions, workers' compensation, unemployment insurance, etc. This committee also handles League positions relating to public officials, including ethics, elections, and other requirements of holding public office.

Utilities & Environment - August 20

This committee reviews and recommends League positions on water supply, water quality, water planning, solid waste, air quality, and other environmental quality issues.

Legislative Policy - August 21

This committee reviews and recommends League positions in all other policy areas and provides general oversight of the policy statement.

Sign up Today!

<http://www.lkm.org/legislative/policycommittees/>

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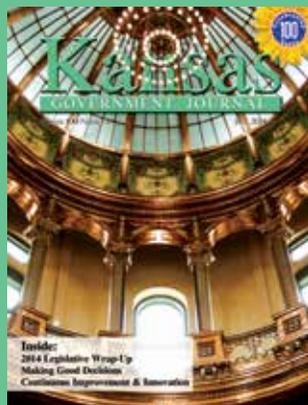
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*About the Cover:
Kansas Statehouse Capitol
Dome, as seen from interior.
Photo by Andrey Ukrazhenko.*

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The mission of the League shall be to strengthen and advocate for the interests of Kansas municipalities to advance the general welfare and promote the quality of life of the people who live within our cities.

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June

27 - MLA: Civility and Public Service, Holcomb

28 - MLA: Civility and Public Service, Andover

July

04 - LKM Holiday: Independence Day

12 - MLA: Civility and Public Service, Spring Hill

August

08 - MLA: KOMA/KORA, Cimarron

09 - MLA: KOMA/KORA, Leawood

September

01 - LKM Holiday: Labor Day

05 - Governing Body Meeting, Hutchinson

12 - MLA: The Power of Leadership, Salina

19 - MLA: The Power of Leadership, Lawrence

Obituaries

Judith J. Swope, 72, died on May 8, 2014.

Ms. Swope graduated from Southeast High School, and attended junior college and the University of Kansas.

Ms. Swope served two terms as a Kansas City councilwoman from 1991-1999, where she chaired the Rules and Audit, Operations and Aviation and Finance committees.

Robert H. Walker, died on May 9, 2014.

Mr. Walker was born in Winfield, Kansas, on September 1, 1937.

He spent approximately thirty-five years in local government with all but about two of those years as a city manager. He retired in 1999 after serving cities in Kansas, Illinois, and Washington. Ellensburg, Washington, and Chanute, Kansas, were two of his longer tenured positions.

Kenneth W. Willey, 77, died March 17, 2014.

Mr. Willey was born on March 26, 1936, in Emporia, Kansas. Ken joined the U.S. Navy in 1954 and was honorably discharged in 1959.

He received his B.S. degree from Emporia Teacher's College and his M.A. from Kansas State University.

Mr. Willey was a biology teacher and counselor for USD 475 for 36 years and served on the Milford city council.



Director's Foreword

by Erik Sartorius



As this issue of the *Kansas Government Journal* reaches you, I am continuing to make my way across the state and meet our members. I hope to have met many of you before the League conference in Wichita in October, and also look forward to seeing you at our regional suppers later in the fall.

To further familiarize myself with the programming the League offers members, I have been setting aside time to attend our webinars and other events. I appreciated the opportunity to learn about nuisance abatement from Tom Barnes and Mark Falk, city attorney and city marshal, respectively, from the City of Alma. Our webinar on recent changes in Kansas gun laws by staff attorney Nicole Proulx Aiken also was enlightening. Also of note is the record attendance of nearly 150 city attorneys at the City Attorney Association of Kansas Annual Conference. Unfortunately, I was unable to attend this meeting, but heard the presentations were very well received.

The governing body met earlier this month in Lindsborg. The hospitality was fantastic, and the energy in the community is palpable. The new Sundstrom Conference Center hosted the meeting. This is a fabulous facility that is already booking several events. The trip to Lindsborg provided a nice opportunity to see a bit of central Kansas. Spring storms were prevalent, and much-needed rain was accompanied by winds that left branches down in many of the communities in which I stopped.

In the coming months, you will see several efforts from us as we seek to explore additional avenues for communicating with you, our members. For one, expect to see us on Facebook in the near future. We know that many of you rely on Facebook not just to keep up with friends, neighbors, and relatives, but also to aid your role as a municipal employee or elected official.

We want the information you need from the League to be accessible in the places you seek information. Those may be our website or listservs, but Facebook and Twitter may also play a role in your information gathering. Look for a more robust presence from LKM on Twitter, as well, as we head toward our annual conference in Wichita in October. You might want to familiarize yourself with Twitter now, because once again we'll be incorporating the League's account (@LeagueKSMunis) into the conference.

While our focus is on the future, we don't want to forget our past. Another feature we will be rolling out to you is the *Kansas Government Journal* archives, dating back to the inaugural issue from December 1914. I believe we at one time had these online. The new wrinkle will be a search feature, which will allow you to look for references to your city and former governing body members.

We are testing the archives now. Out of curiosity, I took the opportunity to look at the June 1964 issue to see the hot topics of the day. You may not be surprised to know that budget challenges and how to fund roads and K-12 education were getting plenty of ink even then. Some things never seem to change, but I did find one shocking difference. One of our advertisers in that issue was the U.S. Brewing Association, reminding us that, "In Kansas... at a picnic, beer is a natural." Wow!

One key focus for me as I come to the League is the strategic plan. Many of you participated in the efforts in 2012 and 2013 that led to the creation of this plan. I was impressed by the level of participation, and believe that speaks to your desire to have the organization succeed and be able to provide the services and knowledge that can assist your efforts for your communities. Some of the work implementing this plan is already underway, and we will be using much of the balance of 2014 to continue implementation and set the stage for further progress in 2015.

Increasing member participation, particularly with respect to legislative issues, is one element of the strategic plan. On the inside cover of this issue, please review the details for the League's policy committees and go to the link provided to join one of interest to you. These committees are a key vehicle to surface emerging legislative issues, as well as review existing League legislative policies. Please consider participating on one of the committees. If you are unable to do so this year, please share with us any issues you believe will come before the legislature next year.

Please know that I want to hear from you. Whether you want to share ideas about the strategic plan, have comments about a training you recently attended, or just visit to say "hi", I encourage you to make contact with me or anyone on staff. Your perspective on what we're doing right and areas where we can improve help us grow as an organization. I can be reached at esartorius@lkm.org. Other staff contact information is on our website at <http://www.lkm.org/aboutlkm>.

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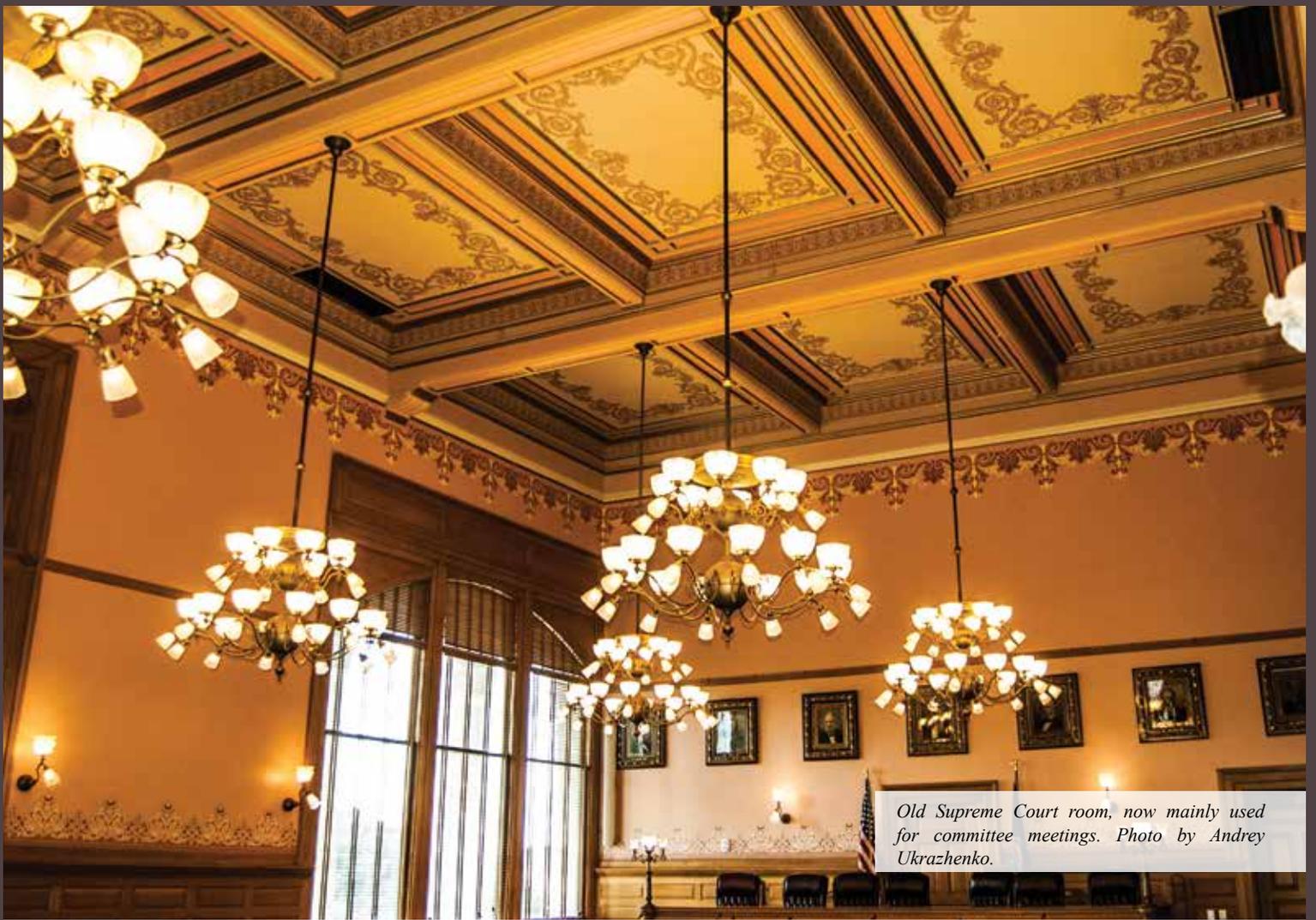
2014 Legislative Wrap-Up

by Nicole Proulx Aiken



The 2014 Kansas Legislature adjourned sine die on May 30. The session lasted only 79 of its allotted 90 days – the shortest session since 1974. Despite the short session and the legislature’s primary concern of passing school finance legislation, LKM found itself testifying on an unprecedented amount of bills that would have negatively impacted municipalities. We are pleased to report, however, that most of these bills did not become law. This wrap-up provides a synopsis of the significant bills that did not become law and an overview of the laws passed that affect municipalities.

*The Capitol building.
Photo by Andrey Ukrazhenko.*



Old Supreme Court room, now mainly used for committee meetings. Photo by Andrey Ukrazhenko.

Bills That Did Not Become Law

KOMA/KORA (SB 10). This bill would have mandated the fees cities could charge for open records requests and required cities to take minutes at every meeting in a format determined by the secretary of state.

Health Club Property Tax Exemption (SB 72). This bill would have granted property tax exemptions to for-profit health clubs.

Elections (SB 211 and HB 2227). These bills would have moved elections to the fall of even-numbered years and the fall of odd-numbered years, respectively

Materials Management (SB 293). This bill would have prohibited cities with populations over 5,000 from providing materials management services outside their incorporated limits.

Municipal Broadband (SB 304). This bill would have prohibited cities from providing municipal broadband services, except in unserved areas.

Public Funds for Lobbying (SB 343). In its original form, this bill would have required cities to file a comprehensive report of public funds used for lobbying, including the entity's use of public funds for paying membership dues to an association that lobbies.

Bills Passed in 2014

Finance and Taxation

Budget (HB 2047). This bill amends K.S.A. 2013 Supp. 79-2925b. Under the bill, cities that pass a budget that includes an increase over the consumer price index for urban consumers as published by the United States Department of Labor must publish notice of their vote in the official county newspaper where the city is located. The bill eliminates the former requirement that cities pass an ordinance before adopting a budget if the levy exceeds the computation limit. In addition, the bill does not apply to cities receiving less than \$1,000 in revenue from property taxes.

Economic Development: Tax Increment Financing and Community Improvement Districts (HB 2086). This bill allows costs for infrastructure improvements contiguous to a redevelopment district to be funded by the tax revenues generated from within the district. The bill also allows cities to pledge a portion of transient guest taxes or sales tax, rather than a pledge of all such taxes to be applied to funding improvements in either a TIF or CID.

Investment of Idle Funds (HB 2312). This bill amends K.S.A. 2013 Supp. 12-1675 and allows cities to invest idle funds in federal agency securities, except for mortgage-backed securities.

Municipal Audits (HB 2591). This bill amends K.S.A. 75-1124 and requires cities to file audit reports – including the circular A-133 report, when required – electronically with the secretary of administration. The bill also establishes the Kansas Department of Administration as the single location for the submission of municipal audits. Cities are no longer required to provide audit reports to other state agencies.

Machinery and Equipment (HB 2643). This bill clarifies that its intent is to codify the legislative intent of the 2006 law that exempted commercial and industrial machinery equipment from ad valorem taxation. In doing so, the bill directs the appraiser to apply a three-part fixture test if commercial and industrial machinery equipment cannot clearly be determined as real or personal property. The bill also exempts equipment used in the production of cement and lime from property taxes.

General Government

The Kansas Use Law (SB 63). This bill amends the Kansas Use Law and allows cities to purchase materials, supplies, and services manufactured and offered by blind and severely disabled Kansans. To learn more about the program visit <http://admin.ks.gov/offices/procurement-and-contracts/state-use-program>.

Ballot Language Statement (HB 2130). This bill allows county election officers to request the preparation of a ballot language statement to explain any municipal ballot question. Depending on the type of request, the county attorney, district attorney, or secretary of state will prepare the ballot language statement.

Licenses for Plumbers and Electricians (HB 2172). This bill affects cities that license plumbers and electricians. It increases the number of classroom hours from 240 to 930 that is required to satisfy one year of field experience.

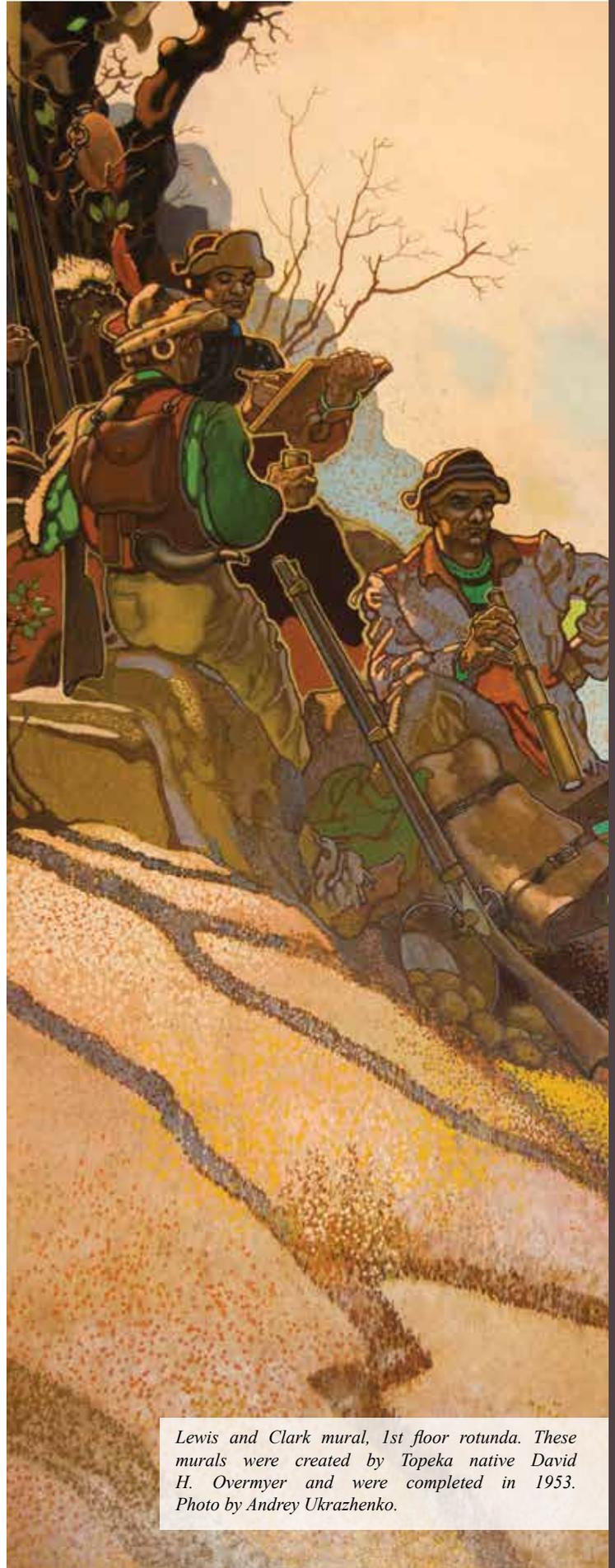
Kansas Open Records Act (HB 2182). This bill eliminates the legislature’s mandatory review of several KORA exemptions.

Johnson County Fire Districts (HB 2419). This bill applies only to cities in Johnson County. The bill amends K.S.A. 19-3623f and provides that any fire district land annexed by a city will remain a part of the fire district unless an agreement is made between the city and fire district that is approved by the board of county commissioners. The bill deletes previous language that required a time limit for an agreement and a hearing process if the parties could not agree. It also deletes the City of Overland Park’s exemption from the law.

Kansas Tort Claims Act (HB 2491). This bill allows attorneys to appear in small claims court on behalf of governmental entities to argue a motion to dismiss for lack of jurisdiction if the small claims action is within the scope of the Kansas Tort Claims Act.

Personnel

Workers’ Compensation (HB 2023). This bill allows firefighters and law enforcement officers to pursue workers’ compensation claims for heart attacks and strokes if: (1) the injury is caused by a specific event occurring during the course and scope of employment;



Lewis and Clark mural, 1st floor rotunda. These murals were created by Topeka native David H. Overmyer and were completed in 1953. Photo by Andrey Ukrazhenko.

(2) the injury occurs within 24 hours of the specific event; and (3) the specific event was the prevailing factor for the injury.

Municipal Liability for Firearms (HB 2140). Section six of this bill amends section four of HB 2578. Under this bill, cities are not liable for the acts or omissions of any person or employee carrying a firearm, unless the employee is required to carry a firearm as a condition of employment.

KPERS Cash Balance Plan (HB 2533). This bill makes changes to the cash balance plan set to take effect on January 1, 2015. Under the bill, new hires enrolled in the cash balance plan will receive a guaranteed 4% interest credit to their accounts every year. The bill also creates a formula for employees to receive an additional interest credit above 4%. Under the formula, employees will receive an additional interest credit equal to 75% of the market value of the system's assets above 6%, based on a five-year average. During the first four years of the plan, the maximum interest credit is 1.5%. This means during calendar years 2016, 2017, 2018, and 2019, employees will not receive an interest credit above 5.5% despite the market value of the system's assets. Starting in 2020, however, there will be no limit on interest credit. The bill also changes the settlement rate's calculation. The settlement rate now equals the actuarial assumed investment rate of return minus 2%. This is currently 6%.

EMT COBRA Coverage (HB 2537). This bill requires cities to pay COBRA coverage for the spouse and dependents under the age of 26 of EMTs who die in the line of duty.

KPERS 60-Day Wait Period before Reemployment (HB 2564). This bill amends K.S.A. 2013 Supp. 74-49,204 and requires retired employees originally hired on or after July 1, 2009, to wait 60 days before returning to work with another KPERS eligible employer.

Insurance Coverage for Autism Spectrum Disorder (HB 2744). This bill requires health insurance coverage for the diagnosis and treatment of autism spectrum disorder in children younger than 12. Employers with fewer than 50 employees may receive a waiver exempting them from autism spectrum disorder coverage if they can show over any 12-month consecutive period that the additional coverage increased their health insurance policy by more than 2.5% in a calendar year.

Public Safety

Crime Committed with an Electronic Device (HB 2478). This bill defines "crime committed with an electronic device" and provides that criminal use of a financial card, unlawful acts concerning computers, identity theft and identity fraud, and electronic solicitation are all crimes committed with an electronic device. The bill also establishes venue for prosecution of the crime.

Buying Sexual Relations (HB 2501). This bill amends K.S.A. 2013 Supp. 12-4416 and adds additional requirements to diversion agreements for individuals violating city ordinances pertaining to the prohibition of buying sexual relations. Under the bill, such diversion agreements shall require that the defendant pay a fine equal to an amount authorized in K.S.A. 2013 Supp. 21-6421. The diversion agreement may also require the defendant to complete an educational or treatment program regarding commercial sexual exploitation.





Kansas Statehouse Capitol Dome, as seen from interior. Photo by Andrey Ukrazhenko.

The bill also amends K.S.A. 2013 Supp. 21-6421 (buying sexual relations) and clarifies how first, second, or subsequent convictions will be determined. The bill stipulates that an individual may receive only one diversion agreement during his/her lifetime for violating this provision.

Firearms and Knives (HB 2578). This bill concerns a city's ability to regulate firearms and knives. The bill prohibits cities from:

- Implementing a firearms buyback program;
- Requiring employees to disclose if they possess a valid license to carry a concealed handgun;
- Enforcing an ordinance that restricts the sale of firearms by an individual holding a federal firearms license in areas where other commercial goods are sold;
- Regulating the open carry and transportation of firearms; and
- Enforcing any ordinance regulating knives.

The bill also makes it unlawful to possess a firearm while under the influence of alcohol or drugs.

Employees: It is LKM's interpretation that under HB 2578, cities can establish personnel policies that:

- Prohibit employees from open carrying while working.
- Prohibit employees from conceal-carrying in city vehicles and while working outside.
- Require employees who conceal-carry to have the gun under their control at all times.

Based on legislative intent and changes to state law, LKM now advises that you can only prohibit employees from conceal-carrying into municipal buildings if: (1) the building has a four-year exemption; or (2) the building has adequate security and the employee does not enter through a door with restricted access.

Exemptions: Cities can still request a four-year exemption to prohibit conceal-carry in any municipal building. To attain a four-year exemption, cities must first adopt a resolution or draft a letter containing a legal description of the building, reasons for the exemption, and the statement, "A security plan has been developed for the building being exempted which supplies adequate security of a concealed handgun as authorized by the personal and family protection act." A copy of the security plan must be maintained on file, but is not considered an open record. The security plan must also be made available to the attorney general and local law enforcement, if requested. A notice of exemption as well as a copy of the resolution or letter must be sent to the attorney general and to local law enforcement. It is LKM's position that a separate resolution or letter should be drafted for every building.

Signage: As we go to press, LKM is waiting for the attorney general to issue rules and regulations regarding the appropriate signage cities will need to prohibit open carry in buildings. LKM attended a very positive meeting with several other businesses and government agencies on May 28 to discuss the new signage requirements. LKM will provide an update on the new rules and regulations once the attorney general issues them.

Interference with Law Enforcement and Giving a False Alarm (HB 2655). This bill amends K.S.A. 2013 Supp. 21-5904 and adds that interference with law enforcement includes falsely reporting that a law enforcement officer has committed a crime or misconduct in the performance of his/her duties. The bill also amends the penalty section of K.S.A. 2013 Supp. 21-6207 (giving a false alarm) and provides that an offender may be prosecuted for interference with law enforcement and giving a false alarm.

Utilities

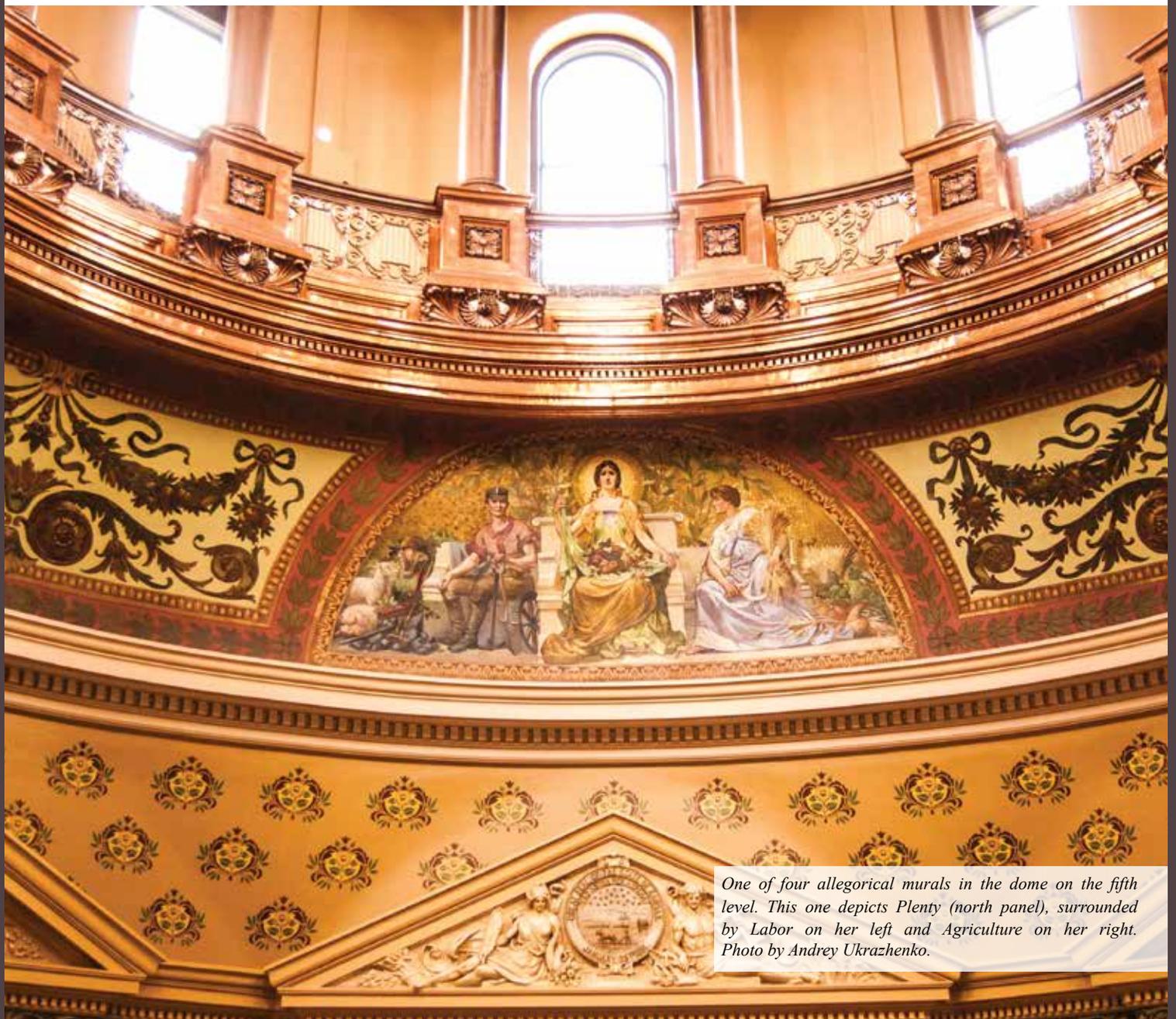
Fee Fund for Water Programs (HB 2548). This bill reallocates wastewater permit funds from the State General Fund to KDHE's Water Programs.

Solid Waste Management Plan (HB 2551). This bill amends K.S.A. 2013 Supp. 65-3410a, which was enacted last year. Under the bill, a city cannot adopt restrictions for a solid waste disposal

area unless the city owns the solid waste disposal *and* the restrictions apply to the residents of the city, but not to residents of other cities or counties being serviced by the solid waste disposal area. The bill also clarifies that the law applies to all solid waste disposal areas, including those in operation before July 1, 2014.

Recycling (HB 2597). This bill allows cities that provide solid waste collection services to add recycling without following the process established in K.S.A. 2013 Supp. 12-2036 if: (1) the city holds a public hearing; (2) the city provides 21 days' notice of the hearing; and (3) no existing recycling collector opposes the new collection system within 21 days of the hearing.

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One of four allegorical murals in the dome on the fifth level. This one depicts Plenty (north panel), surrounded by Labor on her left and Agriculture on her right. Photo by Andrey Ukrazhenko.

2014

Leadership Summit

&

Mayors Conference

MANHATTAN, KS

by Kate Cooley

On May 9-10, city officials from across the state gathered in Manhattan for the 2014 Leadership Summit & Mayors Conference. During Friday's dinner event, the League of Kansas Municipalities (LKM) recognized the 2014 graduates of the Municipal Leadership Academy (MLA).

Founded in 1999, MLA is a continuing education program designed to develop the knowledge and enhance the leadership abilities of both elected and appointed officials. There are three levels of achievement; Level 1 focuses on education, Level 2 on achievement, and Level 3 on leadership.

Five city officials graduated Level 1 by completing 40 total credit hours of training, which include sessions on issues varying from KOMA/KORA, to Ethics, to Municipal Finance. While this year saw no city officials completing Level 2, we know there are several who are close to completing this level. This year also recognized two Level 3 graduates, a feat that has been completed by less than 10 individuals. Level 3 includes such requirements of leading a workshop at a League event, facilitating joint meetings between city, county, or schools, and providing testimony before the state legislature.

MLA offers participants up-to-date training on a variety of local government issues. While our trainers provide quality education to facilitate better municipal governance, equally important is the opportunity for local officials to interact with each other and share knowledge from their own experiences. Participants can learn about real-world solutions and receive feedback from officials facing similar issues, which has been proven invaluable.

For the second year, live one-hour webinar presentations have also been a part of the MLA curriculum. These webinars allow city officials to learn about hot-button issues without having to leave the comfort of their office, and earn one MLA elective credit. The League hopes to continue to offer information in new ways to educate city officials.

This year's graduates have shown a commitment to becoming better public servants, and are assets to all of their respective cities. Congratulations to the 2014 graduates for your commitment to community leadership.

For more information regarding MLA or additional LKM training opportunities, please visit <http://www.lkm.org/mla/> or contact Michael Koss at mkoss@lkm.org.

Level 1 Graduates

- Dennis Bronson, Mayor, Stafford
- Asa Galloway, Deputy City Clerk, Sedgwick
- Tim Vandall, City Administrator, Ellsworth
- Beth Wade, Councilmember, Herington
- Anthony Zell, Wastewater Utility Director, Lansing

Level 3 Graduates

- Larry Paine, City Administrator, Hillsboro
- Terry Somers, Mayor, Mount Hope

Kate Cooley is the Conference/Marketing Coordinator for the League of Kansas Municipalities. She can be reached at kcooley@lkm.org or (785) 354-9565.



Goddard Mayor Marcey Gregory, Kansas Mayors Association President, presenting Stockton Mayor Kim Thomas with the 2014 Kansas Mayor of the Year award.



MLA graduates recognized at this years Leadership Summit. From left to right; Dennis Bronson, Tim Vandall, Beth Wade, Anthony Zell, Larry Paine, and Terry Somers. Photos by Jay Bachman.

The principle of conflict of interests has both secular and nonsecular roots - “No man shall serve two masters” (Luke 16:13) and “A public servant cannot serve with equal faithfulness both private and public duties when the two conflict” (U.S. Supreme Court).

State and local law addressing public official conflict of interests exists because it is inevitable that elected and appointed officials will have private interests and private sources of income that will, to a greater or lesser extent, conflict with their public duties. In their most offensive form, those interests can be deliberate attempts to make personal gain from holding public office. Because public office is a public trust created in the interest of and for the benefit of the people, and because public officers are fiduciaries and trustees of the public interest, their loyalty to the people they serve cannot be allowed to be divided.

This article focuses upon how Kansas statutory law attempts to deal with the difficult question of when does a personal interest of a local government official become sufficient to disqualify that officer from holding office or from acting on a particular matter that has come before him in his public position? In other words, how best to achieve a fair balance to ensure that public office is not used for private gain without prohibiting so many persons from holding public office (because of their private interests) that the very ability of government to function is compromised.

Kansas’ effort to strike a balance between those interests is found at K.S.A. 75-4301a *et seq.*, as amended. As is discussed more fully below, the Kansas law takes the public policy position that a person should not be forbidden from holding office, or required to refrain from discharging the duties of an office already held, merely because of some possibility for a future conflict of interests. The rule in Kansas is that something greater than mere possibility is required in order for conflict to exist. How much greater is not always clear.

An Overview of the Kansas Law

Kansas act, K.S.A 75-4301a *et seq.*, is the controlling law that sets out the basic bottom line with which local government officers must comply. The official who steps beyond that line not only is subject to a possible loss of office, but also to criminal penalties.

The act makes a modest imposition upon those who seek and hold local government office. State law does not create any category of citizenry that is excluded from holding office, merely due to wealth, occupation, or business interests. The Act does not require any person to divest from of any financial interest before assuming public office, no matter how intimate the relationship between those financial interests and the public office. Apparently, it is left to the voters to judge for themselves whether a candidate for office has private interests that are so closely related to the powers and duties of the office sought that the candidate should not be elected, for that reason, to that public office.

The Act is premised upon the belief that if a prospective public official is obligated to publicly disclose certain financial interests, that person will be less inclined to use the public office for private gain. The means for such public disclosure is the requirement to file statements of substantial interests. Those statements and the prohibition against self-dealing are the Act’s basic safeguards for the public.



Identifying of Inte

Identifying Conflicts of Interests

Conflict of interests is historically rooted in matters “involving private pecuniary interests of public officials entering into public contracts.” (*City of Topeka v. Huntoon*, 46 Kan. 634 (1891)). Court decisions have also recognized some conflicts arising out of other official conduct (e.g., dual office holding) and family relationships (e.g., nepotism). Although some states have broadened their conflict of interests laws to more comprehensively cover the conduct of public officials, Kansas has not. However, some Kansas cities have, as noted below, used their home rule authority to adopt local ethics laws that go beyond the statutory prohibitions of K.S.A. 75-4301a *et seq.*

What then does Kansas law consider to be a conflict of interests? In *Anderson v. City of Parsons*, 209 Kan. 337 (1972), the Kansas Supreme Court considered the subject of common law conflict of interests in determining if a member of a city urban renewal commission was prohibited from taking action on an urban renewal project because he owned property within the project area:

“We, of course recognize the common law principle that a public officer owes an undivided duty to the public whom he serves and is not permitted to place himself in a position that would subject him to conflicting duties or cause him to act other than for the best interests of the public. If he acquires an interest adverse to those of the public, without a full disclosure it is a betrayal of his trust and a breach of confidence.” (209 Kan. at 341).



g Conflicts erests

The act does not define what a conflict of interests is. The only Kansas Supreme Court decision attempting to define the term is the 1972 decision noted above, where the Court stated:

“The problem which is often presented in conflict of interest cases is determining whether or not the personal interest of the commissioner or board member is of a nature justifying disqualification to act. Usually this is a question to be determined under the peculiar facts and circumstances of the particular case presented to the court for determination.” (209 Kan. at 342).

Prohibition Against Self-Dealing

K.S.A. 75-4301a *et seq.*, prohibits local government officers and employees from entering into contracts when that officer or employee has a substantial personal interest in the subject matter of the contract. K.S.A. 75-4304 states, “No local governmental officer or employee shall, in the capacity of such an officer or employee, make or participate in the making of a contract with any person or business by which the officer or employee is employed or in whose business the officer or employee has a substantial interest... A local governmental officer or employee does not make or participate in the making of a contract if the officer or employee abstains from any action in regards to the contract.”

The act recognizes three exceptions in which a local governmental officer or employee is not required to abstain from voting on a contract. The first is when the contract is let on a

competitive bid (K.S.A. 75-4304(d)(l)), the second is when the price of the property or service is fixed by law (K.S.A. 75-4304(d)(2)), and the third involves contracts with certain tax-exempt corporations (K.S.A. 75-4302a(e)).

Statements of Substantial Interests

K.S.A. 75-4301a defines substantial interests as, “the ownership by an individual or spouse of any business interest exceeding \$5,000 or five percent of any business, whichever is less, and the receipt by an individual or spouse of more than \$2,000 of taxable income from any business, or combination of businesses, during the preceding calendar year. A substantial interest also includes holding the position of an officer or director in any business, regardless of the amount of compensation so received.” A special exception took effect on July 1, 1991, for holding positions in certain tax-exempt corporations (see K.S.A. 75-4302a(e)).

All candidates for local elective office must file, with the county clerk or city clerk, a statement of substantial interests within 10 days after the filing deadline (K.S.A. 75-4302a).

When an individual is appointed to fill a vacant elective public office, that individual must file a statement of substantial interests within 15 days after taking office (K.S.A. 75-4302a). The disclosure statement must be filed in the office where his or her predecessor filed.

What Must a Public Official Do When a Substantial Interest Exists?

The act does not demand a public official withdraw from office solely because he or she holds a substantial interest. The official must simply comply with the requirement of filing a statement of substantial interests and then abstain from acting on certain matters that come before him/her as a public official (K.S.A. 75-4304(a)). Abstention must be absolute. This means non-participation in any meetings, as well as non-engagement in private conversations with members of the board concerning the subject matter.¹

Should the public officer not abstain, or fail to file the substantial interests report, the officer may, upon conviction, lose his or her public office. (K.S.A. 75-4304(e)). In addition to loss of office, upon conviction for violation of K.S.A. 75-4304 or K.S.A. 75-4305 (failure to abstain from voting and filing of substantial interest reports) the public official faces prosecution for a class B misdemeanor. (K.S.A. 75-4306(a)).

The act requires all elected local governmental officers to disclose substantial interests and changes in those interests that occur subsequent to filing the declaration of candidacy or following appointment to fill a vacancy of office. The officer must maintain, and keep current, his or her disclosure of substantial interests while in public office. Any change must be reported between April 15-30 for changes in any preceding year (K.S.A. 75-4302a).

Who Renders Opinions on Conflicts of Interests?

The Kansas Governmental Ethics Commission is charged with the duty of rendering conflict of interests opinions. (K.S.A. 75-4303a). When a request for an interpretation of the act as it applies

to a specific fact situation is made, and the Commission issues an opinion in response, that opinion becomes binding upon the requesting party. K.S.A. 75-4303a(a), as amended, provides, "Any person who requests and receives an advisory opinion and who acts in accordance with its provisions shall be presumed to have complied with the provisions of the general conflict of interests law."

Any citizen or public official can request an advisory opinion by contacting the Kansas Governmental Ethics Commission, 109 W. 9th Street, Ste. 504, Topeka, Kansas 66612, (785) 296-4219, or at <http://www.accesskansas.org/ethics/>. Opinions issued by the Commission are published in the Kansas Register. The Kansas attorney general also has issued opinions interpreting the Kansas act, as well as the common law rules respecting local public official conflict of interests.

Enforcement

Prosecution under the act is by the county or district attorney, or the Kansas attorney general. Public officials who are found to be in violation of the act are subject to ouster under K.S.A. 60-1205 *et seq.*, as well as the criminal sanctions previously discussed.

Local Conflict of Interests Laws

The Kansas conflict of interests law sets out minimum standards that affected local government officials must comply with. Some Kansas cities have also passed local laws that identify actions or conduct that violate the state law as also being municipal violations. Some cities have also used their home rule authority to go beyond the requirements of the state law and adopted conflicts of interests, or ethics laws which supplement the requirements of the state law. Such local laws commonly have both a broader scope (i.e. public officials covered) and broader prohibitions (e.g. no acceptance of gifts or subsequent employment) than found in the act. One common objective of these local laws is to ensure that public officials avoid even the appearance of possible impropriety. Copies of sample conflict of interests ordinances are available by contacting the League.

 Reprinted from March 1989 Kansas Government Journal, with revisions made by Eric Smith, Legal Counsel, to reflect changes in the law since 1989.

Source:

1. *Dowling Realty v. City of Shawnee*, 32 Kan.App.2d 536, 85 P.3d 716 (2004).



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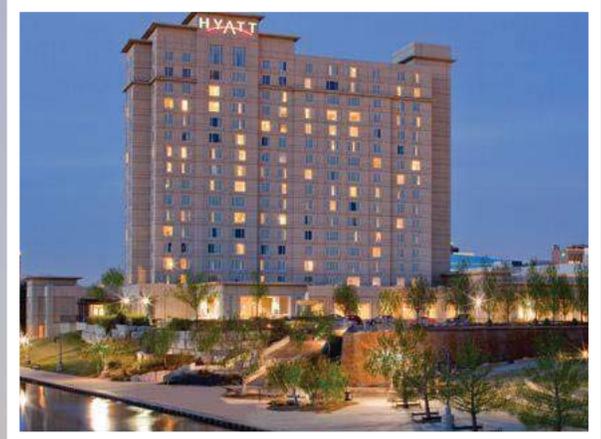
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City Use of Recorded Music

Is your city using recorded music for any of the services it provides to the public? Exercise classes? After school program? The list could go on and on. Do you have a license that authorizes you to play the music? It comes as a surprise to many people that a license is required to play recorded music in public.

So why does a city need to have a license to play music - you bought the CD or MP3 file, right? It might be helpful to stop and remember that a song legally belongs to the songwriter who created it, and the music publisher who markets it. When someone uses city property we generally expect them to pay for the usage, so why would using music be any different? As described by ASCAP¹ “[m]usic is like all personal property—when you want to borrow it from someone you must ask permission. All public performances, even most non-profit ones, must be licensed (with a few exceptions, such as performances in the course of a religious service at a place of worship, or face-to-face teaching in non-profit educational institutions).”

The license is required when municipalities use the recorded music in a public performance. What is a public performance that would trigger the need for a license? As the word indicates the performance must be in an area open to the public or where a number of individuals are gathered. Hence, exercise classes at a recreation department, a street dance, even music on hold for a phone system, are examples of performances that require a license. The license essentially gives the license holder permission to use the recorded music in a public forum.

United States copyright law is found in Title 17 of the United States Code. The copyright law provides a limited monopoly over the use of the creation (song) by the author. In time, all copyrighted songs will become part of the public domain. Songs that were published in the United States in 1922 or prior are in the public domain and no longer are protected by the copyright laws. Due to amendments in the code songs published in 1923 will not become part of the public domain until 2019 and each year after that the next year’s publications will become public domain.

Since only music published in 1922 or before is in the realm of public domain at this time, it is safe to assume that a municipality that intends to use recorded music as part of the programs and services provided to its citizens, will need a license.

The International Municipal Lawyers Association (IMLA)² has negotiated a model license agreement with two of the agencies that license the public performance of recorded music. The agencies are ASCAP³ and BMI.⁴ There is a third agency, SESAC,⁵ which has not agreed to the model license contract. The IMLA license agreement makes it much easier for a city to be sure it is in compliance with copyright laws.

The IMLA model license will cover all buildings and property owned by the municipality as well as events sponsored by or presented solely by the municipality. There are some restrictions

and so it will be important to contact the two agencies that use the model license to determine if additional licensing will be required. For example, the model license does not cover coin-operated jukeboxes or performances by or at colleges and universities.

It will take some research to determine which agency your city will need to seek a license from. Some songs and artists are only represented by one agency. All three agencies allow access to their catalogs of covered songs and artists on their websites. This can be used to determine if the music a city intends to use is all represented by one agency or if multiple license will be required.

What happens if a municipality uses music in a public performance without the permission of a license? A court may award damages with the minimum amount being \$750.00 for each song used without permission.⁶ Where the real damage occurs is that the court can award attorney’s fees and court costs.⁷

What does a license cost? As with most things in life, it depends. According to ASCAP their base license fee for 2014 starts at \$330.00 per year⁸ for cities with a population of up to 50,000 and the price increases for every 25,000 increase in population. When this is compared to the potential risk if sued for copyright infringement the cost of a license seems reasonable.

The next area to think about is showing movies as part of a city sponsored activity. Movies are not covered by the license for music. A separate license will need to be purchased if the city intends to show movies. Just like music, when you purchase a movie it is intended for personal use only and not for use open to the public.

Movies are protected by the same copyright laws as music, so the penalty for infringement of the copyright would be the same. Municipalities will need to contact the Motion Picture Licensing Corporation (MPLC)⁹ to determine the cost of licensing.

It is important that municipalities make every effort to comply with the copyright law, protecting both music and movies. As with all laws, there are exceptions and variations depending on the individual activities of your municipality. The information provided in this article is of a general nature and should cover most activities, but be sure and check with the licensing agencies to be sure you have the proper licenses in place.

 Eric Smith is Legal Counsel for the League of Kansas Municipalities. He can be reached at esmith@lkm.org or (785) 354-9565.

1. The American Society of Composers, Authors and Publishers
2. <http://www.imla.org/>
3. <http://www.ascap.com/>
4. <http://www.bmi.com/>
5. <http://www.sesac.com/>
6. 17 U.S.C. §504(c)(1)
7. 17 U.S.C. §505
8. The fee amount will be increased each year based on the CPI.
9. <http://www.mplc.org>



Edgerton Receives Award for Wastewater Treatment Plant

Representatives from the City of Edgerton, along with Burns and McDonnell Engineering Company, accepted a national engineering award on April 29 in Washington, D.C.

Edgerton Mayor Donald Roberts, City Administrator Beth Linn, and city council member Cindy Crooks represented the City of Edgerton at the awards gala.

The ACEC National Recognition Award was presented to the city, and Burns and McDonnell for their work on the Big Bull Creek Wastewater Treatment Plant and Conveyance System located near the I-35 and Homestead Lane Interchange in Edgerton. Burns and McDonnell designed the facility and the City of Edgerton was the

administrator of the project. The facility, a collaborative effort between the cities of Gardner and Edgerton, lies on six acres, and was built at a cost of \$19 million. It opened on July 31, 2013. It includes nearly three miles of combined gravity sewer and force main and three additional pumping stations. The 500,000 gallon-per-day treatment facility uses energy-efficient technology to meet the most stringent water quality standards in the state of Kansas.

Source: "Edgerton Officials Accept Award in D.C. for Wastewater Treatment Plant." Gardner News. May 8, 2014. Retrieved from <http://gardnernews.com/edgerton-officials-accept-award-in-d-c-for-wastewater-treatment-plant/>.

Arkansas City to Allow Drilling for Oil Under City Park

The Gulf Exploration company will soon begin drilling for oil under Arkansas City's pool and city parks.

"The company that wants to drill, will be moving forward in August," says Arkansas City commissioner Jay Warren. "This should be a really interesting drill."

Warren has been in the oil and gas business about 25 years. He says there will be no drilling inside the actual city parks or next to the city pool. The drilling would be "horizontal" and there will be no wells on the surface of city parks. The wells would be about a half mile away.

The only place the company may drill is agriculture or public lands. They will have to get a conditional use permit, which has

to be approved by the city's planning commission. The city has adopted similar rules and regulations as Oklahoma City. The Gulf Exploration company does a large amount of drilling in Oklahoma City and is familiar with the rules and regulations that were adopted.

Arkansas City will get \$300 an acre a year for the lease, plus a little less than a quarter of the profits, once oil production begins.

Source: Craig Andres. "Arkansas City to Drill for Oil under City Park." Ksn.com. May 12, 2014. Retrieved from <http://ksn.com/2014/05/12/arkansas-city-to-drill-for-oil-under-city-park/>.

Topeka's Public Works Department Receives Second Prestigious Re-Accreditation

American Public Works Association - The City of Topeka's Department of Public Works has recently been awarded a second American Public Works Association (APWA) Re-Accreditation. The APWA Re-Accreditation program recognizes public works agencies that go beyond the requirements of the management practices established nationally in the public works industry, as contained in the APWA Public Works Management Practices Manual. Topeka's Public Works Department received original Accreditation in December 2005, was Re-Accredited in December 2009, and just received the second APWA Re-Accreditation.

Topeka's Public Works Re-Accreditation indicates that the department is maintaining Re-Accreditation documentation and practices, and meeting any new practices adopted by the APWA since its initial Accreditation. "The awarding of the second APWA Re-Accreditation shows that we have continued to dedicate ourselves to concepts of improvement and in-depth self-assessment of department policies, procedures and practices," Topeka Public Works Director Doug Whitacre said. "The champions of this prestigious award are our public works staff whose mission is to provide services and programs that help make Topeka a great city."

Tonganoxie Opens Chieftain Trail Expansion

Tonganoxie recently held a ribbon-cutting ceremony to officially open the second phase of the Chieftain Trail. Local officials and others gathered for the ceremony at Magnatech Park. The second phase, at 1.3 miles, extends and doubles the first phase, a 1.2-mile sidewalk trail that connects downtown to Chieftain Park and VFW Park.

A KDOT grant covered 80 percent of construction costs. The City was responsible for the other 20 percent, plus planning costs.

Kevin Otterman said the extension is one more step in connecting Leavenworth County towns to each other. Though that goal is still far from complete, the Chieftain Trail expansion is an important first step.

Source: Linenberger, Shawn. "Tonganoxie Officially Opens Chieftain Trail Expansion" Tonganoxiemirror.com. June 2, 2014. Retrieved from <http://www.tonganoxiemirror.com/news/2014/jun/02/tonganoxie-officially-opens-chieftain-trail-expans/>.



Making Good Decisions: The Leadership Perspective

by Jeffrey Cufaude

Individuals in leadership positions tend to focus on the value of group decision-making, and research through the years has tended to validate the benefits of such processes. Participative decision-making forms like quality circles have become mainstays in many organizations. The underlying belief of these forms is that having a broader range of viewpoints on a problem or issue increases the likelihood that a comprehensive and appropriate decision will be made. Sometimes this belief relates most to the quality of the decision itself; sometimes it relates most to actual decision implementation and the old adage that people support what they help to create.

Managing participative decision-making, particularly with diverse individuals who may come from various departments or functional areas, requires strong group process and facilitation skills. It is not unusual for individuals to move into management or leadership positions without formal training or experience in these skill sets. You can enhance your decision-making skills by considering some of the same questions that professional facilitators and process consultants often ask when working with groups:

Has the actual problem or issue been identified, or are we currently talking about its symptoms or a subset of the complete issue?

Groups often gather together and spend significant energies in debate without having first collectively clarified and committed to what the real problem is that needs to be addressed. In addition, the language used to frame the potential decision is a critical factor. Just as a frame effects how you view a picture of work of art, so does the “frame” we use affect the way we view our options or choices. Think of how politicians frame the choices available to us to sway our position or support. Leaders call a group’s attention to the potential limits of the frames being used and help individuals explore alternative ways of framing the issue so that groupthink can be avoided.

What are the results we want to achieve and what are the relevant considerations linked to achieving those results?

Even when the problem has been adequately defined, groups often do not spend time reaching a shared understanding of what results need to be achieved? Absent this collective definition of success and individuals (and individual department areas) participate in the discussions trying to affect a decision that supports what they believe success to look like. When definitions of success compete, thoughtful deliberations of the issue at-hand often degenerate into protecting self-interests.

What knowledge or expertise could help us make the best decision, who has that knowledge (both inside and outside the group involved in the discussions and the organization itself), and how can we access their potential contributions?

Good leaders are good stewards of the resources available to a group, but they also recognize that no one group can always have the information or resources it needs to do its work. Seeing the boundaries of a group’s composition as permeable helps look to other potential sources of knowledge and insight.

Have we thoughtfully considered the impact of this decision on other people (areas) and included appropriate parties in the decision-making process?

Many a “good” decision has not been realized because those most charged with the responsibility of implementing the decision or those most affected by the decision itself subtly work to undermine it once it is “announced” by any decision-making body. This does not suggest that every person needs to be involved in every decision. That obviously would be neither practical nor effective. The corollary, however, is equally true: failure to consult the appropriate parties places a decision’s long-term effectiveness in jeopardy.

This question prompts the due diligence evaluation of the group's scope of decision-making. It also forces consideration of the level of support that is needed for the decision's implementation. While consensus is often the default level of commitment sought for a decision, at its heart it reflects an "I can live with that" level of support. That will not be adequate for major strategic decisions. When a more active commitment will be needed, groups tend to expand who has input into the decision-making process and/or spend more time thinking about how the decision will be announced and the process and timetable for its implementation.

What is happening in terms of group process and how can the group's members work together more effectively to make a better decision?

Facilitators and consultants often attend to the process aspects of a group more than its participants might. They understand that the quality of the decision often is tied to the quality of the discussion. As a result, they tend to step back and try to objectively examine what is actually happening as participants interact with each other, what's being said and what's not being said, who's thinking or contributions are not being heard or leveraged, and what interventions might support the group's efforts.

Effective managers and leaders need to adopt this same perspective, constantly thinking not only about the decision itself, but also the thinking that is going into that decision. Doing so can help a group avoid "analysis paralysis" while not falling into the trap that simply being decisive means good decisions are being made.

Recommended resources for better decisions:

Decisive: How to make Better Decisions in Life and Work by Chip Heath and Dan Heath

The Facilitator's Guide to Participatory Decision-Making by Sam Kaner, et al.

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Regulating Airbnb, Uber & Your City's Sharing Economy

Regulation is almost always a step behind innovation. When texting started to become popular at the beginning of this century, policymakers worried very little about this cheap, easy way to exchange small amounts of information. It was only after traffic accidents started skyrocketing and multiple high school “sexting” scandals that governments began regulating the practice. In states with part-time legislatures like Kansas, local governments are often the first public entities to deal with the negative consequences of innovations.

One innovation that has proved especially vexing for regulators is the “sharing economy.” Simplistically, the sharing economy refers to individuals making their assets or talents accessible for a short period of time to a network of individuals, usually facilitated by the internet. Some examples include mobile marketplaces that enable people to rent their services directly to others in their community and websites that allow users to rent out their homes or individual rooms as lodging. These web-based, peer-to-peer companies give those willing to provide the service a means of earning extra cash, and expand the options available to consumers.

The sharing economy is not without its problems, though. Recently, a driver for a peer-to-peer taxi service from Encino, California, was arrested for suspicion of kidnapping a drunk woman and taking her to a motel with the intention of sexually assaulting her.¹ Numerous individuals have had their property vandalized by renting through “sharing” sites.² In addition, established hotels and taxicab services are frustrated that they now face competition from companies that are not subject to the same regulations and fees. The challenge for governments is to balance the need for fairness to all businesses and baseline health and safety standards with the right to entrepreneurial freedom and consumer choice. I hope this article provides some guidance to policymakers dealing with those challenges.

Airbnb and Peer-to-Peer Lodging

The most popular peer-to-peer lodging company is Airbnb, a website that connects users who have property to rent with users looking to rent the space. Using the site is similar to booking a hotel online, but instead you are generally booking one room in a host's home. To register, the site requires an email, phone number, and a scan of your government issued ID. Every property is associated with a host whose profile includes recommendations and reviews by previous guests. Although vandalism is rare, Airbnb guarantees up to \$1 million in property damage to hosts at no cost.

There are 140 Airbnb rentals available in communities across Kansas, which include entire houses, single bedrooms, and shared spaces.³ While these rentals compete with traditional hotels and bed and breakfasts, most are not currently subject to the same regulations, fees, or taxes. Kansas law requires a lodging establishment license for any building where four or more sleeping rooms are offered for

pay to transient guests.⁴ These establishments must collect sales taxes on their room rentals, are subject to state health and safety standards, and must undergo an annual inspection.⁵ Only 9 of the 140 Kansas Airbnb listings offer four or more sleeping rooms, so those are the only establishments expressly subject to state rules. However, the state will enforce these rules against smaller establishments if they receive complaints, and cities can adopt and enforce their own health and safety guidelines beyond the state's standards.

If your city does decide to regulate Airbnb rentals, it should also consider applying industry taxes to them. Kansas law allows cities and counties to impose a transient guest tax on the gross receipts received by hotels and bed and breakfasts (hereafter “lodging establishments”). In 2013, the 101 Kansas cities that impose the tax generated about \$35 million from 636 lodging establishments.⁶ This is a substantial amount of revenue, and research indicates that the transient guest tax is one of the more business friendly taxes, with almost the entire burden borne by tourists and almost none by the hotel operators.⁷ Local governments may subject establishments with three or more sleeping rooms to the tax, which has a statutory cap of 2%.⁸ However, most cities have passed a charter ordinance to levy more than 2%, and cities can also charter out of the tax's limitation to establishments with three or more sleeping rooms. For example, if the City of Lawrence passed a charter ordinance applying their 6% transient guest tax to all Airbnb rentals, including those offering just one room, they would essentially create a new 74 room hotel that paid the tax.⁹ There are a total of 140 Airbnb rentals in Kansas: 22 with three or more sleeping rooms for rent, 18 with two rooms, and 100 with one room. Applying the tax to these establishments would even the playing field for traditional hotels and bed and breakfasts that already pay it, and create an additional municipal revenue source. Cities across the country have already applied their bed taxes to Airbnb rentals, and the company announced earlier this year that they were researching how to collect and remit these taxes from guests without burdening the hosts.¹⁰

Several cities have gone further than just taxing Airbnb rentals and have established official permitting processes. In March 2012, the City of Palm Desert, California, enacted an ordinance providing for the licensing of residential property for short-term rentals. To comply with the ordinance, renters must obtain a yearly \$25 special rental permit and remit a 9% transient occupancy tax to the city. The regulations also require on-site parking, compliance with the city's noise ordinance, a round-the-clock contact person who can respond to neighbor complaints, and a maximum of two guests per bedroom. These restrictions are intended to alleviate concerns regarding noise, congestion and other neighborhood disturbances.¹¹ The City of Austin, Texas, requires a much steeper fee and proof of property insurance,¹² while the City of Madison, Wisconsin, requires renters to keep a guest registration book, provide rooms of “sufficient size”, and to purchase a restaurant license if they wish to serve

food.¹³ Because Airbnb has not expanded in Kansas like it has in other parts of the country, local governments should establish only basic health and safety guidelines and unobtrusive permit fees. LKM has developed a model ordinance with this philosophy in mind, which you can access from our sample ordinances at our website.

Cities should also consider adjusting their zoning rules so Airbnb users can lawfully rent out their property. Many cities seek to protect property values with zoning ordinances that prohibit commercial activity in residential neighborhoods. However, even though Airbnb establishments are commercial, they likely do little to damage the “residential” character of a neighborhood. It’s probably a good policy to create residential zoning rules that allow for renting via Airbnb if the host is a permanent resident, or at least establish an easy process for hosts to obtain a special use permit.

Uber and Other Transportation Network Companies

Another new sharing economy industry is peer-to-peer taxi services. Uber and Lyft are two of the more popular companies in this sector, which connect passengers with driver’s for-hire via mobile apps. Public entities often refer to these businesses as Transportation Network Companies (TNCs). TNCs generally require their drivers to get background checks and that passengers pay via credit card by creating a user account. The State of Kansas does not have regulatory authority over TNCs,¹⁴ and most Kansas cities do not have rules for taxicab or livery services. However, for cities that do have taxicab or livery service ordinances, these peer-to-peer businesses likely could not operate legally within the community. The typical Kansas taxicab ordinance requires that taxi companies obtain permits, have a central office in the city operated 24-hours-a-day, maintain a minimum number of active vehicles, allow yearly inspections, and purchase some level of insurance coverage.¹⁵ TNCs do not have central offices in any Kansas city and likely could not meet these ordinance’s minimum vehicle requirements. For example, the City of Kansas City, Missouri, recently found Lyft in violation of their taxicab ordinance and sent the company a letter threatening them and their drivers with citations if they did not stop providing rides.¹⁶ But if residents want to earn money providing these services, consumers want to pay for the service, and reasonable regulations can protect the public’s health and safety, cities should create guidelines that allow TNCs to operate in their communities. For cities that lack public transportation or safe ride programs, these services may become especially valuable.

Governments have approached TNCs in several different ways. In March of this year, Seattle’s city council voted to limit the number of drivers that ridesharing services could operate to 150 as a means to protect traditional taxi drivers. However, the council’s ordinance was suspended by a coalition that obtained 36,000 signatures to put the question to voters in a referendum. As a result, Mayor Ed Murray is currently leading negotiations that he hopes will establish strong insurance requirements and some deregulation of established taxi companies. Elsewhere, the Colorado state legislature just passed legislation that allows the TNCs to operate with certain stipulations for insurance, background checks, vehicle inspections, and licensing fees. Chicago also just approved regulations for TNC drivers that work for more than 20 hours per week and created a cap

on “surge pricing”, a feature that Uber uses to increase prices when demand is high.¹⁷ To encourage TNC expansion into Kansas, cities should establish fairly conservative TNC regulations or some level of deregulation for traditional taxi companies. LKM has developed a model policy that can be accessed at our website.

Conclusion

If your city is considering regulating peer-to-peer enterprises, the first step should be to find out how many of these businesses exist in your community. This can be accomplished simply by searching your city on sites like Airbnb.com, Uber.com, and Lyft.com. If your community does have a sharing sector, or is anticipating one, city staff should assess the costs and benefits of regulating those businesses. An important consideration should be whether the public ratings and insurance requirements used by these companies are sufficient to protect the health and safety of potential users. If not, the city should invite those who will be affected by the new regulations to take part in their development. This will help ensure regulatory burdens don’t unnecessarily prevent expansion of your community’s sharing sector. Finally, establish a process to review the rules so they keep up with the evolving industry. Staying ahead of innovations might be impossible, but cities should do what they can to not fall too far behind.

 *Michael Koss is Legal Counsel & Membership Services Manager for the League of Kansas Municipalities. He can be reached at mkoss@lkm.org or (785) 354-9565.*

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Coffeyville Receives Grant to Clean Rail Bed Property

United States Environmental Protection Agency - The Coffeyville, Kansas, Community Enhancement Foundation has been selected to receive \$200,000 to clean up the former rail bed property located north and west of the intersection of 1st and Poplar in Coffeyville. The vacant site, historically used as a rail line from the 1800s until 1982, is contaminated with metals, including cadmium, arsenic, and zinc. Grant funds will also be used to develop a voluntary cleanup plan, a sampling and analysis plan, and for community outreach activities.

The grant was provided through EPA's Brownfields Assessment, Revolving Loan Fund and Cleanup (ARC) grants program. These funds give communities and businesses a chance to return economic stability to under-served and economically

disadvantaged neighborhoods through the assessment and cleanup of abandoned industrial and commercial properties, places where environmental cleanups and new jobs are most needed.

Brownfields are defined as those properties whose expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Brownfields sites include all real property, including residential, commercial, and industrial properties. It is estimated that there are more than 450,000 brownfields in the U.S. Cleaning up and reinvesting in these properties increases local tax bases, facilitates job growth, utilizes existing infrastructure, takes development pressures off of undeveloped, open land, and both improves and protects the environment.

Commerce and KHRC Partner to Support Quality Affordable Housing in Kansas

Kansas Department of Commerce - The Kansas Department of Commerce has partnered with the Kansas Housing Resources Corporation (KHRC), the U.S. Department of Agriculture (USDA) and the Federal Home Loan Bank to launch a webpage listing the housing resources available in Kansas. The state and the federal government have numerous programs available to assist individuals and communities in meeting their housing needs. The housing resources page can be accessed at kansascommerce.com/kansashousing.

"As our economy continues to grow, it's imperative that our state has a good supply of affordable and quality housing," Kansas Commerce Secretary Pat George said. "Rural areas in particular often face a shortage of housing. By partnering with the KHRC and other agencies, we're trying to make sure that these communities can meet the demand for housing and attract families and jobs."

In Kansas, resources available to support housing needs include the following:

- The Housing Assessment Tool, which helps communities

become more aware and informed of their current housing inventory in order to develop relevant strategies for housing improvement.

- Programs to assist developers.
- Programs available for cities, counties and non-profits.
- Several USDA and KHRC programs that help individuals and families finance or repair homes.
- Programs available to lenders.

KHRC Executive Director Dennis Mesa said he is pleased to be partnering with the Department of Commerce to further KHRC's mission of enhancing Kansas communities with housing opportunities.

"The combination of the Department of Commerce's webpage, in addition to what KHRC's website has to offer, provides valuable means to help our citizens find housing resources in the state," said Mesa.

For more information about the KHRC, please visit KSHousingCorp.org.

Kansas Officers Graduate From Academy

Kansas University - University of Kansas Public Management Center Director Charles Jones congratulated 57 new law enforcement officers during their graduation from the Kansas Law Enforcement Training Center.

The new officers were members of the 228th basic training class at the center. Located near Hutchinson, the center is a division of KU Continuing Education.

The graduates, who began their training January 27, represented 44 municipal, county, and state law enforcement agencies from across Kansas.

Graduates receive certificates of course completion from KLETC and Kansas law enforcement certification from the Kansas Commission on Peace Officers' Standards and Training, the state's law enforcement licensing authority. The training course fulfills the state requirement for law enforcement training. Classroom

lectures and hands-on applications help train officers to solve the increasingly complex problems they face in the line of duty.

Established by the Kansas Legislature in 1968, the center trains the majority of municipal, county, and state law enforcement officers in Kansas and oversees the training of the remaining officers at seven authorized and certified academy programs operated by local law enforcement agencies and the Kansas Highway Patrol.

About 300 officers enroll annually in the 14-week basic training program. The center offered continuing education and specialized training to as many as 5,600 Kansas officers each year. Funding for the training center is generated from court docket fees from municipal and state courts. No funds from the state's general revenue are used to operate the center.

Continuous Improvement & Innovation

by Bryon Johnson



On May 21st, the City of Salina, Kansas, cosponsored the First Annual Continuous Improvement and Innovation Conference along with the Salina Regional Hospital Center, Philips Lighting, Mid-America Manufacturing Technology Center, and Kansas Wesleyan University. This one day conference held on the Kansas Wesleyan University campus offered participants five tracks to choose from, which included: City Government, Health Care, Small Business, Manufacturing, and Innovation. This conference offered the City of Salina their first opportunity to showcase their efforts to apply Lean and Six Sigma principles to city government.

Salina is not the first to apply Lean and Six Sigma principles to city government, but may well be at the forefront of a major cultural shift that will re-engineer the way local governments operate. This is about improving efficiency. It's simply not enough to enforce the city code or provide the services citizens want. Cities are expected to do it cost effectively. This is the beginning of a paradigm change that will require city officials to be more prudent and more frugal with the public's money.

Transforming government into a lean machine is not yet an exact science. But with each new effort lessons are being learned and passed on. And with time a clearer, cleaner, more effective continuous improvement model for government is emerging. This is precisely the case of the City of Salina. With only 18 months under their belt they do not pretend to have all the answers, but they do believe they are on the right road. And this road is slightly different than that of their predecessors.

Of particular importance in the Salina City model of "Continuous Process Improvement" (CPI) is the use of three key strategies:

(1) CPI Basics – creates a baseline foundation by documenting each step in every process, standardizing it, improving it, and determining the manpower requirements for every process, position, and work unit. Exemptions are granted for portions of these requirements when positions are staffed due to safety requirements. A Process Review Report records improvements. This is a most powerful strategy that permits city government to actually measure changes in efficiency.

(2) Lean – engages all employees in eliminating waste by focusing their attention, not only on concepts borrowed from manufacturing, but also on those pertaining to citizens. The Salina City model uses eight categories of waste: Waiting, Mistakes, Excess movement or motion of workers, Do it right the first time, Inefficient processes, Always do the right thing, Transporting work, and Excess inventory. Salina City employee's created an acronym W-MEDIATE to remember each of these categories of waste. In addition, management

is tasked with applying other lean principles that focus on labor utilization, supply management, efficient processing methods, and customer relations. A Quick Fix Report or an A3 Report is used to record actions taken to fix/prevent problems from ever happening again. The Quick Fix Report was designed by Salina employees to simplify the reporting requirements. It has provided a means of exchanging simple improvements throughout the city and is helping build a culture where incremental improvements occur continuously.

(3) Six Sigma – uses small teams of experts to work on high impact projects. This strategy uses the more traditional Six Sigma approach to develop a cadre of well trained Green Belts that are assigned high impact projects under the direction of a Black Belt project leader. An Executive Support Team identifies the high impact projects that are assigned to these teams. The DMAIC problem solving method (Define, Measure, Analyze, Improve, and Control) is used to guide each high impact project. To increase competency throughout the organization these teams are rotated off after six projects, thereby providing on-going developmental opportunities for employees.

This three pronged approach is intended to increase competency, improve efficiency, and stimulate an actual cultural change that creates a city government that is innovative and results driven. And while Salina City is just in the early stages of making this cultural shift, over the past eighteen months 181 improvements have been made that have resulted in \$256,000 of ongoing savings annually. By adding the one time and cost avoidance savings that are planned, there will be a total benefit of \$2,359,000 within the next five years. Change has not been instantaneous, but is gradually gaining speed as employees become more familiar with the concepts and have repeated and frequent opportunities to make things better.

The key to success in this type of endeavor is summed up by Ed Robinson. "The most important thing to realize about change, or continuous improvement, is that it's... not a project with a deadline or an initiative for one area of your business. Continuous improvement requires your entire team – everybody in your organization, from top to bottom – to embrace change and focus on driving improvements in your business."

The City of Salina is committed to leading the way and sharing what is learned, realizing that both their success and failure can be a stepping stone for others.

 Bryon Johnson is the Director, Process Improvement for the City Manager's Office in the City of Salina. He can be reached at bryon.johnson@salina.org

Animal Shelter Manager

The City of Fort Worth, Texas is seeking a new Animal Shelter Manager. Fort Worth has a population of over 750,000. The Animal Shelter Manager is responsible for 23 employees and a \$2.3 million budget.

Bachelor's degree and five or more years experience required. Formal education in large shelter medicine may be considered as a substitute for actual experience. Bilingual ability in Spanish is a plus. Licensed Veterinarian preferred, but not required.

The salary range for this position is \$62,712-\$100,318, DOQ.

View complete position profile and apply online: <http://bit.ly/SGRCurrentSearches>

For more information:

Bill Peterson, Senior VP

Strategic Government Resources

Bill@GovernmentResource.com

Apprentice Lineman

The City of Beloit is taking applications until July 3, 2014 for an apprentice lineman / lineman. Duties will include but not limited to: the construction and maintenance of the City electrical system. Applicant will be required to live within 15 legal driving minutes of City of Beloit, possess or be able to obtain a valid CDL driver's license and must be 18 or older. Salary will range from \$13.65 to \$20.99. Benefits include vacation, KPERS, health insurance, holidays and sick leave. Please call Ronnie Sporleder at 738-3781 for any questions. The City of Beloit is an Equal Opportunity Employer.

Send application to:

City of Beloit, PO Box 567 Beloit, Kansas 67420 or drop off at the City office 119 N Hersey Beloit KS or e-mail at beloitssystem@nckn.com

Assistant to the City Administrator

The City of Prairie Village, Kansas is seeking a highly responsible, creative, and progressive individual for the position of Assistant to the City Administrator. This position is responsible for general management of one or more programs and conducts research and prepares reports on a variety of projects. This position works as staff support for one or more volunteer committee(s).

Responsibilities include management

of all aspects of the Recreation programs, including personnel, contract management, program development, budget preparation and implementation. The Assistant to the City Administrator also assists the Community Development Department in the implementation of Community Development issues including Planning and Zoning.

Minimum qualifications include graduation from an accredited four-year college or university with a Master's degree in Public Administration, or a related field or equivalent work experience. A minimum of one year of full-time experience in a local or county government is required.

Salary range for this position is \$3,616 – \$5,956 / mo. DOQ. This is an exempt position. Individual chosen for this position must reside within a 35 mile radius of the City.

Application, cover letter, and resume are only accepted online via the City's website, www.pvkansas.com. Review of applications will begin July 18, 2014.

Assistant Director Code Compliance/ Animal Welfare

The City of Fort Worth, Texas is seeking a new Assistant Director Code Compliance/Animal Welfare. Fort Worth has a population of over 750,000. This position is responsible for 85 employees and a \$5.6 million budget.

Bachelor's degree and five or more years' experience required

The salary range for this position is \$82,971-\$136,906, DOQ.

View complete position profile and apply online:

<http://bit.ly/SGRCurrentSearches>

For more information:

Bill Peterson, Senior VP

Strategic Government Resources

Bill@GovernmentResource.com

City Administrator

The City of Medicine Lodge, Kansas (population 2,009), is seeking a qualified leader to be its next City Administrator. Medicine Lodge, the gateway to the beautiful Gyp Hills, is a growing community located in south central Kansas. The City operates with 15 full time employees. The City Administrator serves the Mayor and City

Council. Bachelor's degree in Public Administration or related field is required. Master's degree is preferred but not required. Minimum of three (3) years' experience as a City Administrator, Manager, Department Head or related experience is required. Proven administrative, financial, operational and organizational skills are preferred. Salary range is \$56,000 to \$80,000 annually with an excellent benefit package, including vacation, sick leave, KPERS, medical and dental insurance and utility benefit. Employment contract available. EOE, Resumes can be e-mailed to City Clerk Kandi Williams at kandi@medicinelodge.ks.gov. Position open until filled. Initial review of resumes and applications will be Friday, July 18, 2014.

Chief Technology Officer

Fort Worth, Texas is seeking a new Chief Technology Officer. The CTO reports to ACM for Community and Administrative Services. The IT Solutions Department, with 133 employees, has a FY2014 budget of over \$25 million. Reporting directly to the CTO are the Assistant Director of Services, the Assistant Director of Operations, and the Assistant Finance Director of Enterprise Resource Planning.

Bachelor's degree and 8 years' increasingly responsible experience, including 4 years as a manager, required. Master's degree and 10-15 years' experience leading a large IT department in a municipal setting preferred. Private sector and/or military experience will be considered.

View complete position profile and apply online at:

<http://bit.ly/SGRCurrentSearches>

For more information contact:

Gary Holland, Senior Vice President

Strategic Government Resources

GaryHolland@GovernmentResource.com

City Administrator (\$84,800 - \$120,800)

Franklin County, Kansas (pop. Approx. 26,000; \$22.8 million budget; 245 EE's), one of the fastest growing counties in Kansas, is located approximately 25 miles southwest of the Kansas City metropolitan region on Interstate 35. Our quaint historic community possesses superb educational systems (pre-

school through post-secondary), a fine health care facility, affordable housing, arts and entertainment. Ottawa, Kansas, our county seat, was named one of CNN Money magazine's top 25 places to retire in 2012. American Eagle Outfitters and the Wal Mart Distribution Center are among the largest employers in our industrial area. Our Public Works department maintains 1,029 road miles and 244 bridges in our 571 square mile county. Among our facilities are a landfill, recycling facility, jail, and juvenile detention facility. The County Administrator works collaboratively with 5 elected officials, reports to a progressive elected five-member commission and oversees 11 department heads. For more information about the community, visit <http://www.franklincoks.org>.

Candidates are required to have a master's degree in public administration, business administration, doctorate in jurisprudence or a related field and at least five years of management experience. The preferred candidate will have ten years of management experience in county government, extensive experience in municipal finance and economic growth and development, preferably with rural communities of a similar size and complexity. Candidates must possess effective communication skills, be able to collaborate with the county commission, staff, public and other agencies, and be comfortable with a transparent form of government.

Salary \$84,800+ DOQ. Benefits include health and life insurance, KPERS, and more. Interested candidates should submit a cover letter, resume, and three work-related references to Gayla Wilkins, Human Resources Director, 1428 S. Main, Ste. #2, Ottawa, KS 66067; (785) 229-3444; fax (785) 229-3449; gwilkins@franklincoks.org or apply online at www.HRePartners.com. Please make note of confidentiality requests in application materials. The initial deadline for applications is July 31. The position, however, will remain open until filled. EOE.

City Treasurer

The City of Osage City, a community of 2,940 located in Northeast Kansas, desires to fill the position of City Treasurer. This exempt position is responsible for a wide variety of financial and record-keeping functions. Requirements include strong professional and public service ethic, excellent communication, financial, and management skills; willing to obtain the Certified Municipal Clerk designation.

Bachelor's Degree in a related field is desirable and a Master's Degree in a related field preferred. Similar municipal experience may be substituted for education. Salary range is \$37,000-\$42,000. The city offers an excellent benefits package. Interested candidates should submit a letter of interest, resume, list of five professional references, and salary history to the following: City Treasurer Search, City of Osage City, 201 S. 5th Street, PO Box 250, Osage City, KS 66523-0250. First review on July 1, 2014 and this position will remain open until filled. Questions can be directed to Rod Willis, City Manager at 785-528-3714 or rwillis@osagecity.com. A full position description and benefit profile is available upon request. The City of Osage City, Kansas is an Equal Opportunity Employer.

County Counselor, Franklin County (\$54,400 - \$77,700)

Franklin County, Kansas, is seeking qualified applicants for the position of County Counselor. This position is appointed by an elected Board of five (5) Commissioners and works closely with the County Administrator. This FLSA exempt position will be involved in human resource matters and will provide a full range of legal advice, consultation and services regarding county business and affairs. The County Counselor will provide legal advice to all county personnel on civil matters pertaining to their offices and will represent the county in all legal proceedings.

Interested applicants should possess a law degree from an accredited law school, a current license to practice law in Kansas and in Federal District Courts and have a minimum of four to six years of experience as it relates to local government, or any equivalent combination of training and experience which provide the required knowledge, skills and abilities.

To obtain a complete job description and to apply on-line, go to www.HRePartners.com. The initial deadline for applications is July 31, 2014; however, the position will remain open until filled. Franklin County is an EOE.

Project Manager (Public Works & Utilities)

The City of Atchison, KS is recruiting for a dynamic individual for the position of Project Manager. This position performs a variety of complex professional, administrative, and technical work directing capital project management, annual construction programs

and other functions within the Public Works & Utilities Department. Work involves the application of public works management knowledge coupled with supervision of the Engineering Division. Position will be responsible for planning, directing, prioritizing, and integrating local government functions with the ability to evaluate options and develop sound conclusions, recommendations and courses of action. Ability to present proposals and recommendations clearly and logically in oral and written form; understand, interpret, explain and apply local, state and federal laws and regulations governing local government services. This position will identify, define, and develop funding sources to support existing and planned program activities as well as coordinate the development, writing and submission of grant proposals to third party entities. Preference will be given to applicants with minimum of (3) years of relevant work experience. Bachelor's degree preferred. Salary Range: \$39,874 - \$57,782 DOQ (EXEMPT) Apply on-line at www.hrepartners.com Open until filled.

Service Division Superintendent

The City of Hays is accepting resumes from experienced applicants for the position of Service Division Superintendent, a division of the Public Works Department. A valid driver's license with the ability to obtain a Kansas Commercial Driver's License (CDL) Class A with Tanker Certification and 3-5 years of experience required. A college degree is preferred. Applicants must possess excellent supervisory, leadership, communication, organizational and mechanical skills. This position is responsible for the daily operations of the division and the repair and maintenance of City infrastructure including streets, alleys, signs, traffic signals, snow and ice clearing, fleet maintenance and buildings and grounds. All job offers are contingent on passing a physical exam and drug test. Residency within the three-mile planning boundary of the City is required within 180 days of employment. Salary range: \$49,248 - \$80,280 annually plus excellent benefits including free family health insurance. For more information about the job and benefits visit www.haysusa.com. Resumes must include a minimum of 3 references, 5-year salary history, and cover letter. Resumes can be sent to jsalter@haysusa.com or Human Resources, P.O. Box 490, Hays, KS 67601. Position is open until filled. Phone: 785-628-7320 Fax: 785-628-7323 EOE



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LEAPS

The League Executive/Administrative Position Search (LEAPS) assists cities in filling vacant executive positions and creating new ones.

Model Personnel Policies

Comprehensive personnel policies and guidelines are not only necessary for setting expectations and encouraging employee productivity, but they also help protect organizations from potential lawsuits.

Employment Descriptions

The League maintains a model-job-descriptions database that is available to all member cities. The League also offers individualized descriptions as part of a fee-based service.

Compensation Analysis

Fair and competitive compensation attracts and retains top talent, while helping you assess your organization's financial commitments.

Salary Survey

The League's salary survey is a tool that may be used to determine a variety of statistical data including median and average compensation paid to city employees.

(785) 354-9565 www.lkm.org/services/personnel



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KGJ: A Look Back

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Civil Rights in Kansas: Local Government Responsibility

The Lengthy Congressional debates, legislative processes and then the final passage of the U.S. Civil Rights Act of 1964 focused public attention as never before on the “American Dilemma” - prejudice and discrimination based on race, religion, color, national origin, and ancestry.

The federal act itself emphasizes state and local responsibilities for protecting the civil rights of all persons. Federal enforcement procedures cannot be initiated or commenced until it is determined that state and local efforts are ineffective (or non-existent). Where there are state or local civil rights laws with enforcement powers and administrative procedures for using these powers, the federal delay under the public accommodations section must be for 30 days, added to which the court may stay any proceedings in a civil action pending the termination of state or local enforcement procedures.

When the fair employment section of the Civil Rights Act of 1964 becomes effective on July 2, 1965 the federal enforcement proceedings must wait 60 days (extendible to 120 days) for a state or local fair employment practices commission to remedy the alleged unlawful employment practices before a federal civil action may commence.

With federal recognition that state and municipal governments are closest to the people and are therefore in a better position for dealing with human relations problems, where does Kansas stand with respect to civil rights law enforcement?

In 1874 the Kansas legislature passed a civil rights act regarding places of public accommodations. The Kansas Supreme Court in several cases between 1923 and 1948 declared this statute to be penal in nature and that it must be strictly construed. A series of decisions to narrowed the act’s coverage as to render it unusable to remedy obvious discriminatory practices. The same act was amended by the 1959 Kansas legislature to reinstate or provide what seemed to have been the early intent to cover hotels, restaurants, or “any place of public entertainment or amusement, for which a license is required by any of the municipal authorities of this state,” plus all public transportation facilities...

☀ *Article written by Carl W. Glatt, Executive Director of the Kansas Commission on Civil Rights. July 2 of this year will mark the 50th Anniversary of the Civil Rights Act of 1964 being signed into law.*



The March on Washington for Jobs & Freedom in Washington, D.C. Photo from Library of Congress.

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“WHY STUDY
THE STARS?
they all look
THE SAME TO ME.”

{ *Apprentice to
Galileo Galilei, 1636* }

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