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# Kansas

GOVERNMENT JOURNAL

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July 2014

**Inside:**

**Miniature Cell Tower Regulation**

**Social Media in Government**

**Community Improvement Districts**



# 2014 E. A. Mosher Excellence in Local Government Award

The E. A. Mosher Excellence in Local Government Award is presented annually to an elected city official who has not only demonstrated outstanding service to his or her own city, but has also shown an active commitment to strong local government and service to the League of Kansas Municipalities (LKM). Named in honor of E. A. Mosher, League Director from 1960 to 1991, this award is designed to honor excellence and leadership at the highest level.

#### **Nominees for the E. A. Mosher Excellence in Local Government Award must meet the following qualifications:**

- Must be an elected official from an LKM member city;
- Must have held elective office for a minimum of four years;
- Must have nomination in at the close of nominations on August 22, 2014;
- Must demonstrate contributions that have had a significant impact on the quality of life of the citizens of his or her city;
- Must demonstrate contributions in promoting positive intergovernmental relationships; and
- Must show involvement with LKM.

#### **Guidelines for the selection of the 2014 award winner are as follows:**

- Nominations will not be accepted after 5:00 p.m. on August 22, 2014;
- Nominations may be made by any elected or appointed official of an LKM city;
- The Awards Committee of the LKM Governing Body will select the award recipient;
- The decision of the Awards Committee will be final; and
- The winner's name will be kept confidential until the presentation at the LKM Annual Conference in Wichita.

For a nomination form, go to <http://www.lkm.org/excellence/> or, contact Anna DeBusk at (785) 354-9565 or [adebusk@lkm.org](mailto:adebusk@lkm.org).

## LKM GOVERNING BODY NOMINATIONS

LKM encourages officials from all member cities to participate in our organization and to consider serving on the governing body. Being part of the governing body is an excellent way to shape the future development of the organization. LKM welcomes officials from all cities, in all regions of Kansas, to nominate their colleagues or even themselves for governing body positions.

Article 4 of the LKM Bylaws charges the Nominating Committee with submitting a written report at least 24 hours before the start of the annual business meeting of the organization.

This year's business meeting, including elections, will be held Monday, October 13, during the LKM Annual Conference in Wichita.

In order to facilitate the process, we ask that all nominations be received by Friday, September 5 at 5:00 p.m. to the League of Kansas Municipalities, 300 SW 8th Ave., Topeka, KS 66603. **You can also go online and submit your form electronically at [www.lkm.org](http://www.lkm.org).**



National League of Cities

## Interested in Serving on the NLC Board?

The LKM Awards Committee is charged with reviewing applicants who seek the endorsement of LKM with regard to a position on the National League of Cities Board of Directors. If you are interested in being considered for endorsement, please send a cover letter and resume to Anna DeBusk

at [adebusk@lkm.org](mailto:adebusk@lkm.org) or 300 SW 8th Ave., Topeka, KS 66603, (785) 354-9565 by 5:00 p.m. on Friday, August 22, 2014. The Awards Committee will review all requests for endorsement and make a recommendation to the LKM Governing Body for final action.

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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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## August

- 08 - MLA: KOMA/KORA, Cimarron
- 09 - MLA: KOMA/KORA, Leawood
- 12 - Finance and Taxation Policy Committee, Topeka
- 14 - Public Officers and Employees Policy Committee, Topeka
- 20 - Utilities and Environment Policy Committee, Topeka
- 21 - Legislative Policy Committee, Topeka

## 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

## Correction

In last month's issue of the *Kansas Government Journal* on page 168, "Bills That Did Not Become Law" was used in the right column in error. This should have read "Bills Passed in 2014."

## Obituaries

**Ralene Fern Frame**, 80, died on June 20, 2014.

Ms. Frame was born February 23, 1934, in Kansas City, Kansas, to Ralph and Helen Laird. She lived in the Kansas City area for 80 years and in Olathe since 1954. Ms. Frame worked in the Johnson County Treasurer's office as a clerk.

**Trisha Anne Purdy**, 24, died on June 21, 2014.

Ms. Purdy graduated from Jayhawk Linn High School in 2008 and attended Pittsburg State University. She married Jerry Purdy on August 24, 2013, in Mound City, Kansas. She was employed as clerk for the City of Blue Mound.

**Ellen Seuferling**, 65, died on June 20, 2014.

Ms. Seuferling was born May 21, 1949, in Kansas City, Missouri, the daughter of August "Bud" and Evalyn Poe Pope.

Ms. Seuferling was the long-time city clerk for the City of Louisburg before being promoted to chief financial officer. She started her career with the City in April of 1987.

# Director's Foreword

by Erik Sartorius



Happy Fourth of July! I hope you, your family, and friends enjoyed the holiday. The Fourth always seems to mark the real beginning of summer for me, more so than the end of school or the summer solstice. Moist heat is increasingly replaced by a dry heat, and I'm suddenly the best friend of people looking to unload 100 excess zucchinis and tomatoes. County fairs cannot be far away, and soon I will see an upswing

in the number of popsicle-stained clothes in my house.

We have now launched the Facebook page I mentioned in last month's magazine! Come visit us at [www.facebook.com/LeagueofKansasMunicipalities](http://www.facebook.com/LeagueofKansasMunicipalities). Page 198 of this issue highlights this new feature from the League. We hope this Facebook page becomes a useful resource for you, where you can find out about upcoming League events and trainings, pertinent news and fast-moving issues. Over time, we plan to have our Facebook page also serve as a platform for sharing with Kansans information about member cities and some of your special events. As you will see, we are excited to be kicking off this new (to us, anyway) platform for reaching members, and are celebrating with several giveaways to people who choose to "like" us. Please spread the word!

Our Facebook launch coincides with this month's insert detailing our Annual Conference, which is why the grand prize of our Facebook "like" contest is a free registration for the Annual Conference. Discussions with staff about the program have left me excited about the opportunities to learn from experts and share experiences that we all can take back to our cities. In my early travels around the state, I have heard repeatedly from city leaders about how valuable it is to be in the company of people facing similar challenges and seeking solutions. Your annual conference provides the best environment—structured or informal—for having such conversations. I hope you choose to join us October 11-13 in Wichita.

Harvest appeared to be ramping up when I headed to western Kansas in June. Several fields were cut, and I spent a fair amount of time behind grain trucks. I had the pleasure of visiting with Mayor Cole Worrell, City Administrator Tim Vandall, and City Clerk Patti Booher in Ellsworth as they dealt with several trees down from strong winds. A stop in Claffin found City Clerk Patricia Schmidt hard at work helping a constituent, so after a quick "hello" she got back to doing just that. Council member Wayne Henneke, City Administrator Howard Partington, and City Clerk Amit Patel took some time from budget work to visit with me about what is going on in Great Bend. As per their suggestion, I took the opportunity to see their aquatic park and amazing new sports complex.

(This is where I will make a personal plea for you to send us photos of your fabulous cities. Staff bids me farewell with the admonishment that I had better return from trips in Kansas with a phone full of photos. I'm trying to capture the beauty of your cities as best I can, but please do not put your fate in my hands! Gordon Parks, I am not.)

Jetmore was my next stop. City Administrator Grayson Path, City Clerk Deb McKivergan, and I had a chance to visit about Grayson's first year as Jetmore's first administrator. Garden City Mayor Roy Cessna (fellow 2010 Leadership Kansas classmate!), City Manager Matt Allen, and Public Utilities Director Mike Muirhead were gracious with their time. They gave me a great update on Garden City and the region. As I mentioned in my last column, Garden City was my father's hometown, so this stop also marked a chance to visit my roots. A visit to the family gravesite and then dinner with my aunt and uncle in Cimarron closed out a great day.

A big thank you is due to Salina City Manager Jason Gage for the highlight of my trip headed back east. Jason invited me to stop in at the luncheon for area managers and administrators. Their discussion of upcoming budget plans and franchise agreements was enlightening. Thanks to Jason and Mike Schrage (Salina), Dave Dillner (Abilene), Glenn Rodden (Beloit), Paul Briseno (Hays), Larry Paine (Hillsboro), Jonathan Mitchell (Hoisington), and Cheryl Beatty (Junction City) for the warm welcome. It was also great to see Don Osenbaugh with KMIT again.

The League's Nominating Committee is currently being formed, which is why page 194 has a link to a form for the most important ingredient in that process—nominees! The governing body consists of a mixture of elected and appointed city officials, with directors serving three-year terms. I would encourage you to reach out to current or past governing body members if you are considering to apply. To a person, I believe they will tell you their service was a rewarding experience that resulted in new friendships and knowledge from across the state.

Primary elections are just around the corner, as many of you can probably tell by the number of campaign signs appearing in your city. Advance, in-person voting begins on July 29, with the in-person election held on Tuesday, August 5. There have been some changes to the law with respect to who may vote in primaries, so I encourage you to go to the secretary of state's website ([www.kssos.org](http://www.kssos.org)) to review voting information.

Good luck as you maneuver through budget season. From anecdotal conversations, news articles, and comments on our listservs, I know that cities continue to face several budgetary challenges. Thank you for the time you take on behalf of your constituents to seek the balance between revenues and expenditures, and for being willing to make the difficult decisions that are needed.

I do have a request of you that will assist the League as we speak with legislators. Would you please share with me any specific circumstances affecting your budgets? We are particularly interested in state or federal unfunded mandates or losses of funding from those levels of government. These types of challenges tend to be forgotten or minimized when there are discussions of how local governments manage their finances. I believe the effect of the unfunded mandates and losses of federal and state revenues must be brought to the attention of your state and federal elected officials.

As always, please feel free to reach out to me with questions, concerns, suggestions or just to chat (and don't forget those photos!) at [esartorius@lkm.org](mailto:esartorius@lkm.org) and 785.354.9565.



## Join LKM on Facebook!

[www.facebook.com/LeagueofKansasMunicipalities](http://www.facebook.com/LeagueofKansasMunicipalities)

“Like” us by September 1 to be eligible to win a number of great prizes - including a chance for a free conference registration!



# Miniature Cell Tower Regulation

*Is Your Municipality Prepared for the Wireless Telecommunication Service Providers That Are Coming to Your Community?*

*By Arline Sokolowski*

**M**any cities throughout the State of Kansas are entering into negotiations with companies that are in the wireless telecommunications business and are seeking to build infrastructures throughout the State of Kansas with the goal of boosting wireless connectivity. Consumers want faster wireless service and these companies seek to fulfill that need. There are many different types of business models that are currently within the State of Kansas. Some businesses seek to increase wireless services directly to homes. Other businesses seek to increase wireless services throughout a city. While other businesses seek to modify already existing telecommunications structures to increase the availability of wireless services. If your municipality is like most municipalities around the United States, this is not something that was planned for. Additionally, your municipality may not understand the business model or business purpose of these companies, thus making it more difficult to effectively negotiate with these businesses.

This article addresses one particular type of wireless structure – a Distributed Antenna System (DAS), a.k.a. small “micro” cell towers. This article cannot possibly address every issue related to DAS networks, as this is a massive topic. Likewise, the business structure of the wireless company, as well as the type of DAS network that will be placed throughout your municipality results in numerous different issues to consider. This article provides a general overview of DAS networks and is intended to get your community talking about these types of structures and what local ordinances and contractual models need to be in place for a successful relationship between your municipality and the wireless telecommunications provider.

## **Things you need to know**

### *1. What is a Distributed Antenna System?*

A Distributed Antenna System is a network that consists of many antennas tuned to precisely match the areas of a building, venue or general area where boosted service is needed. Basically a DAS system helps boost coverage in specified areas. These DAS networks are sometimes set up in the form of micro cell towers, a.k.a. small cells.

You are likely familiar with a macro cell. These are the large cell towers that started popping up everywhere over twenty years ago. Your municipality likely created some type of a Master Plan to address these wireless telecommunication macro cells. Macro cells are now a common structure in every community and municipalities

have general ordinances and licensing procedures on how to handle a macro cell contract.

Micro cells are the opposite of macro cells. Micro cells are small cells that are placed throughout a municipality to boost wireless service in specific areas. For instance, small cells can be placed around a downtown area to help boost wireless signals for an arena or venue where large amounts of citizens congregate. A wireless company can place twenty micro cells around an arena so that wireless reception increases within that arena. Because these are micro “small” cells, they only cover a radius of approximately 2,000 feet. Therefore, the wireless vendor will seek specific locations with limited deviation from that exact area. Depending on the scope of the project, a municipality may need to address anywhere from ten to hundreds of small cell installations throughout the municipality. The vendor will have created a general map of the areas where it would like to place these small cells.

### *2. How do DAS networks work?*

Generally, vendors will place these small cells on top of light poles. These small cells require a height of approximately 30-40 feet. Therefore, they can be placed on top of poles, buildings, billboard signs, etc. The entire DAS network will generally be placed in public right-of-way’s, as the wireless company will likely seek to avoid negotiating with private landowners for use of property.

The other component of this device is the power source. This is a box that can vary in size; however it is not larger than a regular transformer box. The power source will either be attached at the bottom of the pole or will be placed next to the pole, on the ground.



Therefore, there will be two components in the right-of-way at each location: (1) the actual antenna at the top of the pole, building, billboard, etc., and (2) the power source box.

Above ground, you have the antenna and power source box. Underground, you will have a tremendous amount of fiber optic line. Every small cell tower will need to be individually hooked up to the large macro cell tower that is already in your municipality. Therefore, the municipal right-of-way will be greatly utilized. Some of this will be above-ground, strung from pole to pole. Other areas will have fiber optic placed into the ground.

### *3. How does my municipality negotiate with the DAS network provider?*

The most important questions for a municipality are: (a) what rights and control does my municipality have when negotiating this type of project, (b) what compensation, if any, can a municipality obtain from this type of project, and (c) can my municipality apply pre-existing contractual templates?

If your municipality is like most cities throughout Kansas, you have not updated your franchise ordinance for years. Negotiating with outdated local ordinances is possible; however, it is recommended that your municipality be proactive and amend ordinances to reflect different types of right-of-way agreements and a larger definition of gross receipts under your franchise ordinance. As with any analysis, you must first consult your local ordinances to ensure that all obligations are being met.

#### *(a) What rights and control does my municipality have when negotiating this type of project?*

Your municipality's control and rights depend on many different things. For instance, is the vendor of this DAS network a public or private utility? Is this vendor deemed a Competitive Local Exchange Carrier ("CLEC"), Incumbent Local Exchange Carrier ("ILEC"), or neither?

These are important questions, as the type of company you are dealing with makes a huge difference in your rights and obligations. If you are dealing with a privately held company that has no CLEC or ILEC affiliation, it is likely that you will be able to contract with this vendor as a private party, with negotiated contractual terms that are not limited by state statute.

An ILEC is a telephone company that provided local service prior to the Telecommunications Act of 1996 which owns most of the local loops and facilities in a serving area. These are the large telephone companies that were around before the Telecommunications Act of 1996 ("Telecommunications Act"). CLEC's arose out of the Telecommunications Act and provide customers with an alternative to the local telephone company. CLEC's are afforded certain rights and therefore compete with the ILEC's. If you are dealing with a CLEC, your rights as a municipality *may* be limited. A CLEC is afforded many federal and state rights to assure competition.

Generally, two statutes apply to telecommunications companies; K.S.A. 12-2001 and K.S.A. 17-1902. Other state statutes provide definitions and address certain subcategories; however, for purposes of negotiations, K.S.A. 12-2001 and K.S.A. 17-1902 are the most relevant statutes. Additionally, the Federal Telecommunications Act should be consulted for an understanding of intent.

K.S.A. 12-2001 addresses a municipalities' right to grant franchises for different types of utilities. K.S.A. 12-2001 is the general authority that governs franchises and was likely the starting point for your municipality's local franchise ordinance.



K.S.A. 17-1902 only applies to telecommunications service providers and their occupation of right-of-way's. The intent and interpretation of this statute is greatly debated, as there is virtually no case law on this statute. A telecommunications service provider will interpret this statute as stating that a municipality can *only* deny a telecommunications provider access to right-of-way on grounds of public health, safety and welfare [K.S.A. 17-1902 (e)] and that a telecommunications provider does not have to enter into a franchise agreement, or any other agreement, with the municipality. It is virtually impossible for a municipality to prove that a DAS network would affect the public health and safety. Communities that have tried to argue that micro cells can cause health problems have been unsuccessful in the legal system. If K.S.A. 17-1902 is applied as telecommunications providers interpret it, a municipality would have no control over the placement of the DAS network. This type of statute has been debated in other non-Kansas municipalities, especially with respect to fees and compensation for use of a right-of-way.

*(b) What compensation, if any, can a municipality obtain from this type of project?*

As previously stated, a telecommunications provider will argue for the application of K.S.A. 17-1902 (n), which, not only provides the right to use the right-of-way, it also states that the only fees that can be imposed on a telecommunications provider are actual and verifiable costs – no profits. Application of this provision would severely limit a municipalities' ability to receive compensation for the use of right-of-way.

On the other hand, municipalities have argued that K.S.A. 12-2001 trumps K.S.A. 17-1902 and/or municipalities have invoked a "Home Rule" and the federal "Safe Harbor" position. The Telecommunications Act itself states that state and local governments have the right to manage their right-of-way and to require fair and reasonable compensation from telecommunications providers, if the compensation required is publicly disclosed by such government. [See 47 U.S.C. 253(c)]. Currently, this topic of rights, control and compensation has not been clarified by any courts or legislation. Usually, parties will negotiate somewhere in the middle of both positions. A municipality may give up some control over placement of micro cells in exchange for a fee arrangement. A wireless provider may agree to work within a communities' aesthetics requirements, to an extent.

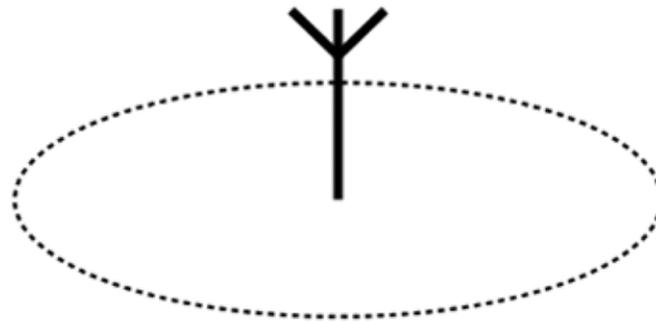
*(c) Can my municipality simply apply our standard franchise template?*

It is highly recommended that you do not simply apply your standard franchise template. Although such template will address matters such as permits, bonds, and relocations, you will likely contract your municipality out of being able to collect any compensation. Yes, most franchise templates contain a provision that applies a fee of five percent of gross receipts. Most franchise templates take the definition of "gross receipts" right from K.S.A. 12-2001(c)(6). Look closer at that definition. In the middle of that definition, there is language that states: "All other revenues, including, but not limited to revenues from... wireless telecommunications services... are excluded from gross receipts."

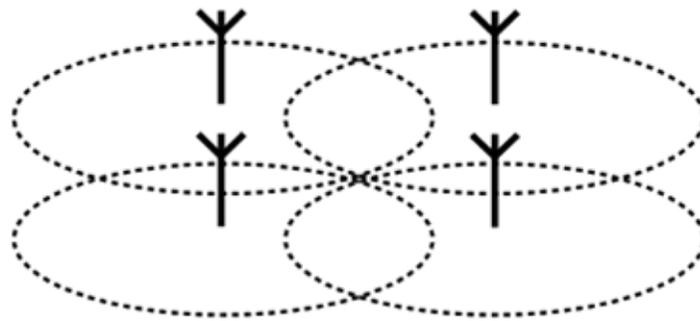
Therefore, if your municipality simply applies a template franchise agreement to a DAS network provider, it will likely negotiate itself right out of receiving any type of compensation. It is suggested that when negotiating an agreement, whether it be labeled a franchise



*Photo Courtesy Rob Nall - Heartland Tower, Inc.*



single antenna



distributed antenna system

agreement, a license agreement or a right-of-way agreement, that the definition of gross receipts be redrafted.

The fee and business model for micro cells is simply different than the structure surrounding macro cells. Most municipal ordinances and policies for macro cells are simply inapplicable to DAS, micro cell systems. First, most macro cells are built on private property. Therefore, there is usually a land contract, lease and/or easement of some sort. This is one large structure going onto property that is private. On the other hand, a DAS network consists of small cell towers going up all over the municipality with fiber optic connecting that network underground. There is a tremendous use of right-of-way and the city cannot negotiate its right-of-way in the same way that it negotiates private land use contracts.

Additionally, the business models for these wireless companies are sometimes different than those companies your community has worked with before. For instance, in previous matters, your community may have dealt directly with the wireless company, i.e. AT&T, Verizon, Sprint, etc. In some states, these wireless companies have directly approached a municipality to erect a DAS network. In other states, such as Kansas, a third party vendor may have contracted with the wireless company to build the DAS network infrastructure. The wireless company then leases the DAS network from that third party vendor. This is important for many reasons, including: (1) the large wireless company would likely be an ILEC, whereas the smaller third party vendor may be a CLEC.

(2) A municipality may desire to seek funds directly from the large wireless company, but will not be able to due to the business structure. (3) By leasing the DAS network, the third party vendor is not providing telecommunications services within city limits and may not fit directly into a point-to-point type of structure. Your municipality should pay attention to the type of business model that surrounds the DAS network, as it makes a huge difference in fee structures.

In conclusion, the ever expanding area of wireless telecommunications is expanding right to your community. Your municipality should start these discussions now, as this is an area of telecommunications that will continue to grow and change. DAS networks are growing and being constructed all over the United States. Within the next five years, a large part of Kansas will also have different wireless structures, including DAS networks, within its communities. Make sure your municipality is prepared to negotiate the best outcome for its community.

 Arlene Sokolowski is the Deputy City Attorney for the City of Wichita. She can be reached at [asokolowski@wichita.gov](mailto:asokolowski@wichita.gov) or (316) 268-4681.

## TIPS

- Does your municipality have a Wireless Communications Master Plan? If so, there should be a process to address macro cells. This Plan will likely need updating; however, your municipality has a good foundation. Even if your Master Plan does not address micro cells, your municipality has a starting point and can revisit the process it engaged in when creating that Master Plan to start the discussion about micro cells. If your municipality does not have a wireless Master Plan, it should seriously consider creating one, as the wireless telecommunications industry will continue to grow and technologically advance.
- A DAS wireless vendor should have a general map or some type of specified idea of the area in which it would like to place micro cells. A municipality should ask for that so that discussions may begin between engineers for both parties.
- Does your municipality own poles or does a third party electric company own the poles? This is important for negotiations. If the municipality owns its own poles, this may provide a source of revenue. If a utility owns the poles, the wireless vendor will need to negotiate with that utility in order to utilize those poles. The wireless vendor may also desire to erect its own poles. These different circumstances result in different considerations and results.
- When negotiating, your municipality must address where these power sources will go. Attachment to the pole appears ideal; however, the height, width and aesthetics of this power source are all issues that must be addressed. This is especially important in locations that have aesthetic restrictions.
- Your municipality may seek to specify areas where underground is necessary and/or may seek to ensure that new poles will not be erected simply to string fiber optic above ground.
- Municipal ordinances should be modified to provide for the application of Home Rule and the Safe Harbor arguments. The Telecommunications Act states that if a government requires compensation, it must be publicly disclosed.



# Social Media in Government: How to Handle a Mishap



*The information in this article is from a report by the New Zealand Government Information Services Department of Internal Affairs.*

**S**ocial media mishaps – such as when a message is misinterpreted or when there is backlash from a social media community – can cause damage to a government’s online reputation and need to be managed carefully. An important difference between social media and traditional media is speed; therefore, working through such issues requires new approaches, judgments, and responses to work.

This article starts with the “business as usual” activities a jurisdiction should undertake to provide a certain amount of prevention against an impending issue, as well as an early warning system. It then provides guidelines for dealing with an event before moving into post-event analysis, which is your opportunity to review and amend processes and procedures as necessary. Finally, the article gives some tips on what should be done after the event in order to move forward.

## TYPES OF MISHAPS

**Governments face a number of potential social media challenges:**

**Directed Abuse.** Abuse directed at the agency or an individual at the agency.

**Leak/Early Release.** Information that is shared before its official release date, either maliciously or by mistake.

**Unwanted Intrusion.** Entering into a social media conversation when the audience does not want the jurisdiction’s participation.

**Heated Topic.** Discussion of a topic which gains strong viewpoints from opposing sides.

**Misinterpreted Message.** A message that is intended one way but interpreted in another, creating confusion or ill will.

**Misaligned Expectations.** The expectation of the audience is different from the expectations of the agency.

**Hack or Wrong Account Posting.** An account’s security is compromised and inappropriate messages are posted, or a user accidentally posts on the agency account rather than his or her personal account.

**Questionable Humor.** Humor that the entire audience might not find funny, and might instead find inappropriate.

**Insensitive Statement or Opinion.** A posting that might be offensive to at least a certain portion of the audience.

Exhibit 1 illustrates the ease of resolving these issues and the impact they have on brand and reputation. The four outlying problems – hacking or a wrong account posting (low impact/easy to remedy), directed abuse (low impact/hard to remedy), insensitive statement or opinion (high impact/easy to remedy), and leak or early release (high impact/hard to remedy) – require specific responses. The center cluster of issues– unwanted intrusion, heated topic, misinterpreted message, and misaligned expectations – have moderate impacts that are moderately easy or difficult to remedy. These are often challenging for governments because there are

no specific rules and processes to follow for each situation. The employees who respond to social media on behalf of the jurisdiction need to rely on a set of general behavioral guidelines and judgments made at the time. The diagram also identifies the questionable humor issue as low on the ease of remedy scale, but having a moderate impact on reputation.

### BEFORE THE EVENT

Putting basic business as usual processes in place is the most effective way of avoiding social media mishaps. The best way to be aware of what people are saying and when is to spend time monitoring and listening, so checking in on as many platforms as possible is the best early warning system.

**Be Ready for a Mishap.** It is essential to have clear procedures in place before anything happens. Foremost among these:

- Identify key people to be notified in the event of an issue. This list should be reviewed and kept current in line with other communications escalation procedures.
- Identify and approve social media authors to respond in the event of a social media mishap. Note that a mishap may occur outside of business hours, so approved authors

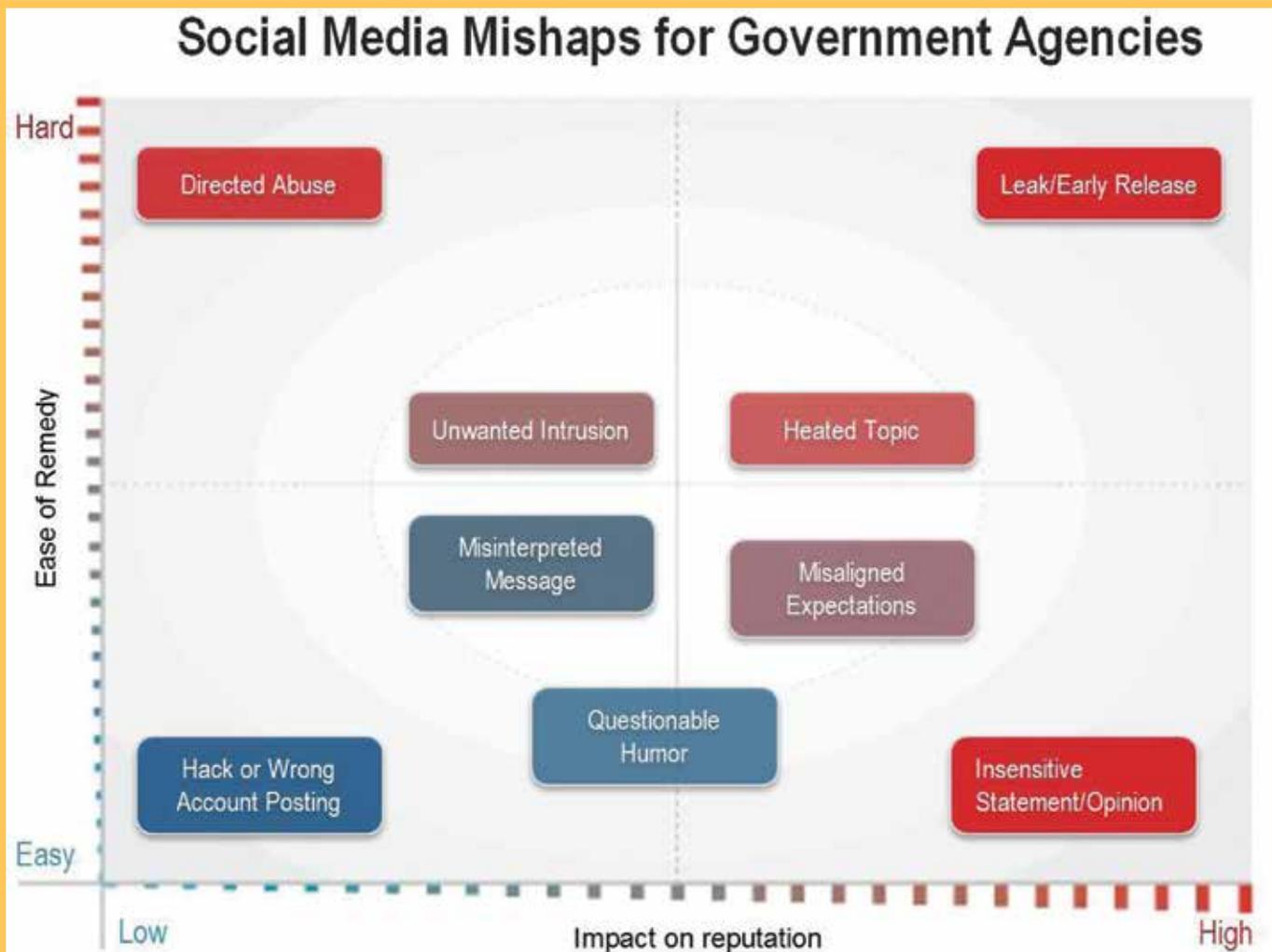
should be available across all shifts.

- Develop several pre-approved first response templates for each social media platform to help authors respond quickly and appropriately.
- Establish a formal process for releasing the first response.

**Minimize the Chance of a Mishap.** This is a situation where prevention really is the best medicine. Strategies for minimizing the chance of a mishap include the following:

- Identify key influencers within your social media base and keep them happy. Know who has the most followers and what they see as being most valuable within the social media realm.
- Keep the content the organization posts creative and engaging in order to provide value to your audience. The more captured your audience is, the more likely they will resolve potential issues for you.
- Put goals and objectives in place to measure your social media presence. In-house monitoring can be combined with current media monitoring activity, which requires online tools to monitor platforms. Keep in mind that social media includes agency posts on other sites as well as Twitter and Facebook.

Exhibit 1: Public-Sector Social Media Mishaps



## DURING THE EVENT

In addition to being familiar with the organization's pre-approved first-response strategy, each department or agency needs to consider its own appropriate level of response. At a minimum, you should:

- Notify the key people throughout the agency immediately, and keep them up to date as events develop.
- Always try to respond on the platform where the mishap occurred. If it was a Twitter post, respond with a tweet.
- Your response should explain that the organization is aware of the issue, that it is being looked into, and that you will let people know more once you have further information. Thank everyone for their patience and understanding.
- Publish the initial response as soon as possible by following the organization's documented, pre-approved process, including escalations following the first response. If you find yourself in the middle of a social media mishap and there is no previously established process in place, advise others immediately.

**General Guidelines.** Consider the organization's reputation when responding to social media mishaps. Consistent management and engagement will ensure the best understanding of how your community might be expected to react under given circumstances, but the following are general guidelines for online behavior. Things to do:

- Advise all necessary members of senior management, in accordance with the organization's communications policy.
- Be honest (within legal guidelines) and genuinely apologize for mistakes.

- Act extremely quickly, even if only to say you are investigating immediately.
- If you cannot respond quickly, pay attention to both positive and negative comments.
- Show that real people in your agency are trying to fix the problem.
- Stay in touch with and update people individually, or as a group, if there are many similar queries to respond to.
- Establish a hashtag (a tag embedded in a message posted on Twitter, consisting of a word within the message prefixed with a hash sign – for example, “This is a Twitter message with a #hashtag”) for a large incident so people can follow it, or use one that is in common circulation.
- If a primary authoritative source does issue information, attribute it clearly.
- Keep it simple and get to the heart of the issue.
- Recognize and thank members of the community that support you.
- While humor can sometimes help diffuse a situation, it may not be appropriate for government agencies where an authoritative response is expected.
- Encourage people to send feedback and respond promptly.
- Ask people to contact you directly with complaints.
- Correct faulty information tactfully and in a calm and congenial manner.
- Keep your messaging simple and your tone non-threatening; try not to be reactive.
- Be specific and relay what went wrong and the remedial steps you are taking to address the situation.
- Issue progress reports to keep your community up to date.
- If it isn't possible to admit a mistake or issue an apology because of the threat of litigation, reassure audiences that the organization is taking steps to ensure that there will not be a repeat of the incident.

### Things not to do:

- Ignore complaints.
- Prioritize speed over accuracy of information.
- Spread any information without first verifying the source.
- Spread hate against persons or a community.
- Spread information that could be used negatively.
- Say something just as an attempt at humor; during a mishap, every statement should have a purpose.
- Respond to or delete abuse or trolling (a purposeful attempt to aggravate, blame, or direct abuse to provoke responses and further inflame a situation). Stay calm and ask these people to contact you directly.
- Engage in lengthy dialogue. Social media is not the right forum and allows for too much interpretation.
- Use technical jargon.
- Quote rules or regulations unless you need to correct facts.
- Dole out solutions or information; avoid prolonging the situation if possible.
- Say “no comment.” If you have no information to share, be honest and promise to find out.

**Hacking or Wrong Account Posting.** Contact the owner of the social networking platform as quickly as possible if you are



“Social media mishaps can damage a government's reputation. They need to be managed carefully and quickly.”

locked out of the account and use other forms of communication to explain the situation to the public. Act quickly and demonstrate that the situation is being corrected. In the case of hacking, ensure that processes for login and authentication are reviewed and amended after the event. Humor might be appropriate under certain conditions, but don't make an effort to be funny. Just be human.

Never mix personal and corporate social media accounts on one system such as Tweetdeck. While doing so is convenient for social media responders, it can be too easy to make this kind of mistake.

**Directed Abuse.** Directed abuse can put considerable strain on the people monitoring and engaging with target audiences through social media. The attacks can be brutal and sometimes quite personal. Individuals do not have to accept abuse or harassment, and it is often in breach of the terms of service for the platform, so you can ask the service provider to investigate.

The online community tends to recognize the difference between a complaint and abuse, and community members will often assist you in dealing with it, supporting the organization with their comments and generally understand that the organization is trying to work through the issue.

**Important considerations for resolving abuse are:**

- Understanding the tone of the communication. Determine whether the discussion could be rational or if it is negative and aggressive.
- Determining the frequency of the abuse – whether it's part of a larger trend or a one-time incident.
- Considering the sphere of influence. All complaints should be acknowledged, but pay attention to the number of followers, friends, or subscribers a person has in order to determine an appropriate response
- Using the organization's social media monitoring tools.
- Making yourself known. Most people who complain in social media forums don't even know that the organization is on Twitter or reading their blog. When you come across a complaint, contact the person immediately, identify yourself, and ask if you can help.
- Trying to improve the situation, staying positive and respectful. You'll probably be able to tell immediately if you can make things better. Many people are happy to hear from someone, so find out the root of the problem. If it can't be fixed right away, tell them you're working on it. Keep in constant communication until the problem is resolved..

**Leak or Early Release.** Data leakage introduces a serious risk. When employees post on their social networking sites about projects they are working on or policies being developed, they don't necessarily realize they are posting confidential information. If information is perceived to be leaked, it will spread quickly and often result in a flood of activity and questions directed to the agency. Any employees who answer social media must be completely aligned with other spokespeople for the agency, and updates must be given to both traditional and new media at the same time. This spike in activity may require additional staff to help answer queries. It may also require strong links throughout the agency to people who can give authoritative or technical answers.

**Other types of information may also require legal or public relations counsel before publication, including:**

- Information that invades the right to privacy (personnel records, medical files, or information provided to the agency in confidence).
- Identities of individuals who are injured or dead, until you receive assurance that the next of kin have been notified.
- Medical condition of injured parties. Queries should be referred to hospital authorities.
- Statements attributing blame or speculation about the cause of the mishap, unless the information is from the findings of official investigative agencies.
- Information about dollar estimates or financial ramifications, until the appropriate officials have conducted an appraisal.

**Insensitive Opinion or Statement.** This often happens after the organization has been using social media for a period of time and employees feel comfortable interacting with the community. Unfortunately, this relaxation can cause a slip of the tongue or a flippant remark in jest. Due to the speed of the Internet, such an issue can become a much bigger challenge to manage if it isn't dealt with quickly. Also, be aware that the issue may persist, since the original post can be easily shared and quoted on the Internet for quite some time. Actions to take include the following:

- Act quickly.
- Apologize genuinely.
- Show the steps the organization will take to ensure it will not happen again.
- Make the resolution public.
- Look at it from the users' point of view.
- Do not retaliate to abuse or trolling.
- Choosing to delete a post is a judgment call, but never delete comments just because they are negative.
- Delete comments only if the language is offensive or abusive. State that this form of discussion is against the organization's moderation policy.

**CONCLUSIONS**

Once a mishap is under control is an opportune time to assess the situation, the response, and the outcome. This information should be used to document the lessons learned. It might be necessary to change processes, roles, and responsibilities, and if so, these outcomes should be fed back into the organization's activities when the audit is completed.

After a social media mishap, the organization you will need to re-engage with its community and rebuild its presence and persona. This should be done genuinely by listening and engaging slowly. Do not assume the jurisdiction can jump straight back to the comfortable pattern of interaction it may have had previously. It will need to demonstrate responsibility and reform, and then reaffirm and prove its stated intents or aspirations.

 Reprinted with permission from the December 2013 issue of the Government Finance Review magazine.



## FAQs: Phone Inquiries & Other Questions Posed By City Officials

This month I am reaching into the “bottom desk drawer” and bringing out some recurring issues. While I and others have written on these topics before, they are subjects that always seem to pop up during conversations with city officials around the state.

**We have a new council member who is also our city superintendent. Is this legal?** Many cities raise the question of whether a current employee can also be a council member. This question comes up surprisingly often, particularly in smaller cities. In 2000, the Kansas Supreme Court addressed the question of whether a school board member could also be employed as a teacher in the same district. *USD No. 501 v. Baker*, 6 P.3d 848, (2000). The Court said that being the employer and the employee made the two positions incompatible. The same reasoning is true for city officials. Under Kansas law, an individual who assumes an incompatible office is deemed to have resigned from the first office. Thus, the council member vacates the position as an employee of the city. Note, however, this does not mean that a mayor or council member cannot continue to do occasional contract work for the city. An example would be a mayor who owns the only backhoe in the city. The city contracts with the mayor to do what little trenching work the city needs done. That would not be considered employment.

**What is this public purpose doctrine we keep hearing about? Or, to put it another way, is it proper for the city to spend money to send flowers to a council member who is in the hospital, or for a myriad of other purposes?** City governing bodies levy taxes to provide a variety of city services. In order for an expenditure of tax dollars to be proper, the governing body must find a public purpose for the expenditure. In other words, the action taken by the governing body should benefit the citizens of the community in some fashion. Some examples that have been held to be public purposes are cash grants awarded to new or expanding businesses, buying and operating the local gas station or grocery store and using funds to educate citizens about an upcoming vote on a bond issue. This type of question usually arises in the context of economic development and what kinds of incentives are proper to lure businesses to the city.

**I abstained from voting on the motion to award the mowing contract to my neighbor, but the clerk counted me as voting “yes.” Why did she do that?** On motions regarding non-ordinance matters, Kansas follows the rule that an abstention is counted with the prevailing side. On ordinances, however, K.S.A. 12-3002 requires that a majority of all members elect of the council vote in favor of passage, so abstentions do not count. Remember, it is important that governing body members not abstain from voting just because the decision is a hard one or the vote might be unpopular. There are very few circumstances requiring abstention. See *The Governing Body Handbook* published by the League for a discussion of the conflict of interest rules.

**A citizen at the last council meeting said we violated the cash basis law by approving a purchase. What does this law require?** The cash basis law basically states that no indebtedness can be created against a current fund unless there is money in

the fund to pay the debt. This is why the governing body should designate a funding source when approving a purchase of goods or services. For example, the council votes to purchase a new mower and states that the purchase will be paid for from the general fund. There must be money in the general fund at the time the source is designated to pay for the mower. It is not lawful to incur the debt believing the city will have the money by the time the invoice arrives. In addition, multi-year contracts must have a provision allowing cancellation of the contract if the money to pay the contractual obligation is not appropriated. There are certain exceptions to these requirements and the full text of the cash basis law can be found at K.S.A. 10-1101 through K.S.A. 10-1122.

**How do we know how much interest to pay on utility deposits?** Each year the Kansas Corporation Commission sets the interest rates payable on utility deposits. The rate is available on the KCC website at [http://kcc.ks.gov/pi/interest\\_rate.htm](http://kcc.ks.gov/pi/interest_rate.htm). The 2012 rate was 0.12%; the 2013 rate was 0.18%; and, the 2014 rate is 0.13%.

**A citizen came to city hall and requested information on how much the city pays several of our employees. Our employees do not want the information released. Do we have to give out that information?** Under the Kansas Open Records Act (KORA), the names, positions, salaries, and lengths of service of city employees are open to the public. The rationale is that, as public employees paid with taxpayer dollars, the public has a right to know who is employed in what position and how much money employees are paid. The employee does not have a voice in whether the information is released and the release of this information does not violate any privacy right.

**What are the Standard Traffic Ordinances and the Uniform Public Offense Code and why should we adopt them?** The League publishes booklets that contain standard traffic regulations (STO) and public offenses (UPOC). These incorporate the most recent legislative changes and are in a form that allows cities’ police officers to write tickets or charge offenses that can be prosecuted in municipal court, rather than writing a ticket or charging a defendant with a state law violation that must be prosecuted in district court. Cities typically adopt each publication by reference on a yearly basis to assure they are enforcing the most current versions of the ordinances. The 2014 versions of the UPOC and the STO will be available soon.

The League has a number of other publications that help answer these and many other questions. A complete list of League publications is posted on our website.

 *Larry R. Baer is Legal Counsel for the League of Kansas Municipalities. He can be reached at [lbaer@lkm.org](mailto:lbaer@lkm.org) or (785) 354-9565.*



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400 W Waterman

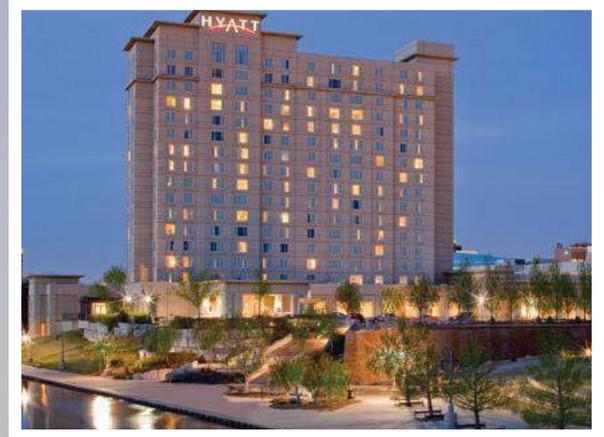
Wichita, KS 67202

888.421.1442

Rate: \$124 + tax per night

Cut-off date: September 9, 2014

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\*\*Hyatt Regency Wichita requires a non-refundable deposit equal to one night's stay in order to secure reservations.

\*Complimentary self-park included for overnight guests, otherwise \$6 per vehicle per day for drive-in guests.

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Wichita, KS 67213  
316.263.1061  
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Cut-off date: 9/11/2014

Drury Plaza Hotel Broadview Wichita  
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Wichita, KS 67202  
800.325.0720  
\$124 + tax per night  
Cut-off date: 9/26/2014  
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### RESERVATION PROCEDURES:

- LKM has made special arrangements with the hotels listed to provide accommodations during our Annual Conference.
- Attendees are responsible for making their own reservations. Please contact the hotel directly.
- Remember to ask for the special LKM conference rate when making reservations.

### SPECIAL NOTE:

If you are making hotel reservations for someone else, please confirm with each person that they actually need hotel accommodations before making the reservation.

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# Mainstreet News

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## The Lawrence Arts Center Wins \$500,000 Grant

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The Lawrence Arts Center has succeeded in winning a \$500,000 grant from ArtPlace America to enliven Ninth Street east of downtown.

“This is a big, big deal,” said City Commissioner Bob Schumm, who served on the Lawrence Cultural District Task Force. “We’ll have what should be an unbelievable attraction.”

The Arts Center’s winning proposal, “Free State Boulevard: From the Studio to the Streets” calls for “re-imagining” Ninth Street between Massachusetts and Delaware streets, according to a description from the Arts Center. Grant money will imbed public art in the streetscape, enhancing the corridor as “a platform for visual and performance art not yet imagined.”

Arts Center CEO Susan Tate said the artistic part of the project

would be designed in tandem with planned city-funded street and walkway improvements along the corridor, which connects downtown with the Warehouse Arts District.

Coordinating the effort will likely be the first big project of the city’s arts and culture director, a newly created position currently in the hiring phase. Tate said planning would begin this fall, but the city commission must determine a timeline for construction and art installation. The call for artists will be open to both local and international artists.

Source: Shepherd, S. (2014, June 25). Lawrence Arts Center Wins \$500,000 Grant. The Chamber - Lawrence, Kansas, Growth. Leadership. Advocacy. Retrieved from <http://lawrencechamber.com/lawrence-arts-center-wins-500000-grant/>.

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## Hutchinson Proclaimed Smallville for Two Days

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Christopher Wietrick, Ben Eisiminger, and Casey McNeely sought to have the City of Hutchinson’s name changed last year, in honor of the induction of Superman into the Kansas Hall of Fame.

This year, after presenting to the city council, Wietrick said the City of Hutchinson was called “Smallville – The Home of Clark Kent” on June 21 and 22 of this year.

Wietrick said he thinks the most important part of this year’s

festival was when he presented medals to Smallville heroes who help make a difference in this community.

Source: Betzold, M. (2014, June 15). Hutchinson to be proclaimed Smallville for 2 days. The Hutchinson News. Retrieved from [http://www.hutchnews.com/news/local\\_state\\_news/hutchinson-to-be-proclaimed-smallville-for-days/article\\_dc68744a-859e-5116-b577-865b1cb6892e.html](http://www.hutchnews.com/news/local_state_news/hutchinson-to-be-proclaimed-smallville-for-days/article_dc68744a-859e-5116-b577-865b1cb6892e.html).

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## Kansas City and Olathe Included in Presidential Entrepreneur Push

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President Barack Obama plans to announce executive actions and new commitments from local leaders nationwide, including in Kansas City and Olathe, to spur entrepreneurship as a way to boost manufacturing.

President Obama traveled to TechShop, a community-based workshop, in Pittsburgh, PA, to make the announcements.

The President held the first-ever White House Maker Fair, where

he met with entrepreneurs who are using new tools to launch businesses, learn science, technology, engineering and math and fuel manufacturing.

Source: Kansas City, Olathe included in presidential entrepreneur push. (2014, June 17). kansascity.com. Retrieved from <http://www.kansascity.com/news/government-politics/article567243/Kansas-City-Olathe-included-in-presidential-entrepreneur-push.html>.

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## Chanute Approves Ultra High-Speed Broadband Project

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The Chanute City Commission on Monday voted 5-0 to move ahead with a \$13.5 million project to expand its publicly run ultra high-speed broadband service to every home and business in the community.

The project is contingent on finding funding and doing a cash flow analysis of the next 20 years, said Larry Gates, public works director.

The new system would be 100 times as fast as the national average Internet connection. It would cost \$40 a month for city residents and \$50 a month for those who live outside the city

limits, with no installation charge.

Chanute’s high-speed network is being used by its hospital, community college, library, banks and other speed-critical businesses. The expansion would make the southeast Kansas town the first municipality in the state to offer publicly-run, ultra-high-speed broadband service to all homes and businesses.

Source: Mann, F. Chanute approves ultra high-speed broadband project. (2014, June 10). www.kansas.com. Retrieved from <http://www.kansas.com/2014/06/10/3501632/chanute-approves-ultra-high-speed.html>.



## Community Improvement Districts (CIDs) Case Study in Kansas Relays Lessons Learned

By Ty Lasher, Michelle Meyer, and Alison McKenney Brown

### The Dilemma

In 2007, an experienced developer planned a 60-acre upscale housing community in the City of Bel Aire with new homes ranging in price from \$450,000 to \$800,000. The City accepted the petitions for installation of infrastructure and issued a temporary note to cover the cost of installing streets, water lines, sewer lines, and storm drainage.

The developer built 10 upscale model homes on the site and was able to sell several of them relatively quickly. In 2008, the “housing bubble” burst and residential development slowed to a halt as the recession hit Kansas. The developer struggled to keep the project moving but was eventually forced to claim bankruptcy and walk away. The few remaining unsold homes and the remaining residential lots reverted to the ownership of an out-of-state bank. The bank quickly liquidated the houses but held the lots to determine if their value would increase over time.

In 2011, Bel Aire issued a general obligation bond to refund the temporary note that was issued in 2008 to fund the development’s infrastructure. In Kansas, special assessments are used where the cost of infrastructure is spread to a benefit district in accordance with K.S.A. 10-114, *et seq.*, and paid by the homeowner over a period of 20 years. The bank however, owned 57 lots and chose not to pay the special assessments or property taxes on any of them.

The bank understood that Kansas law allows a property to accrue three years of back taxes and special assessments before such property is eligible to be sold at a sheriff’s sale. So, while the bank held the lots in limbo for three years incurring no cost, Bel Aire was responsible for repaying the debt service payments on the bond, yet receiving no revenue from the special assessments. The total special assessments on the bank-owned lots amounted to \$150,000 per year.

The City of Bel Aire was in a no-win situation. Not only were taxpayers having to cover the special assessment payments for at least three years, the City was also losing out on the revenue from the general property taxes for that same time period. In all likelihood, at the end of the three year period, Bel Aire would end up purchasing the lots at the sheriff’s sale and taking possession of the property in order to protect their investment.

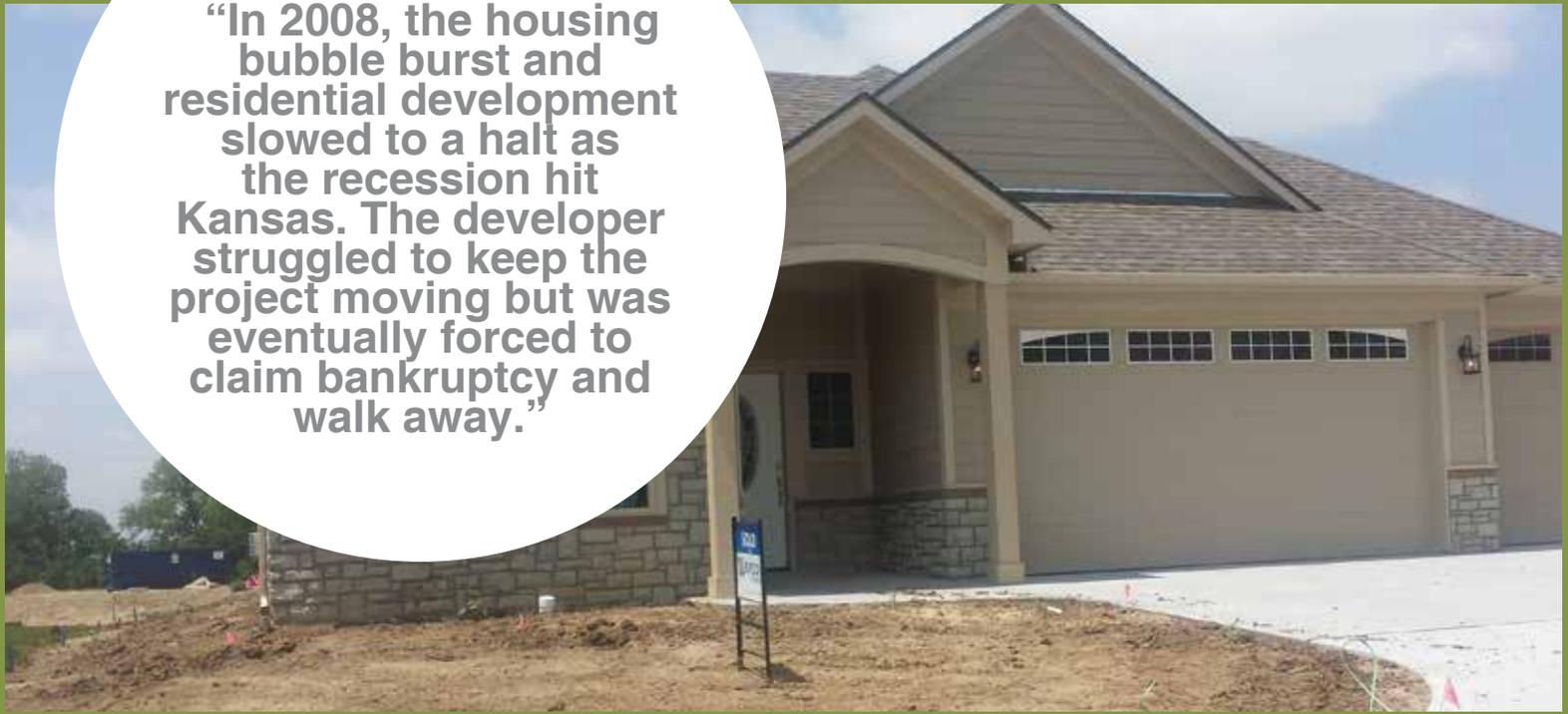
In addition to Bel Aire’s long-term fiscal concerns with these lots, the homeowners in the area were worried that the vacant lots could possibly be sold to anyone willing to buy them, resulting in a less standardized development and potentially reduce property values for existing homes. City leaders knew that the best possible outcome for all interested parties was for a new developer with a clear vision to purchase the lots. However, developers were unlikely to take over a development that would require them to immediately begin paying special assessments on such a large number of lots.

### Stakeholder Meetings

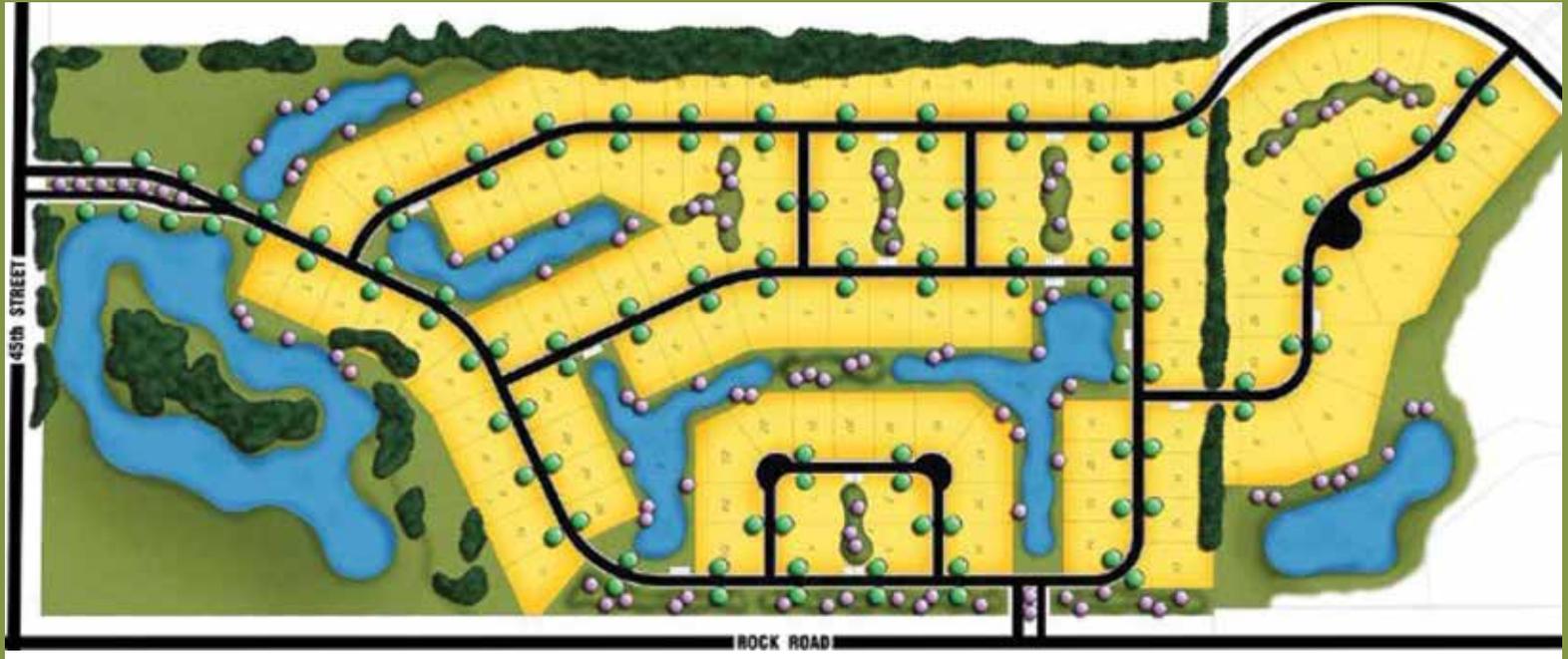
In 2012, a successful developer contacted Bel Aire City Manager Ty Lasher seeking assistance in acquiring the lots and dealing with the special assessments. Staff held several meetings with the bank and the developer, both jointly and separately, to determine what each party needed from the other to allow this developer to move forward with construction.

All parties understood that failure to take action would result in the lots being sold at a sheriff’s sale and could possibly cause other problems. Therefore, the bank eventually agreed to sell the lots to the developer for the value of the outstanding real property taxes and special assessments, this was the amount the bank had to pay out in order to validly transfer the lots.

“In 2008, the housing bubble burst and residential development slowed to a halt as the recession hit Kansas. The developer struggled to keep the project moving but was eventually forced to claim bankruptcy and walk away.”



Map and photos of the Elk Creek housing development map and construction. Photos provided by Ty Lasher.



The developer agreed to pay the bank but was unwilling to immediately become responsible for the annual special assessment payments for the lots. The developer could not turn the project into a successful development if such a significant portion of cash was tied up in paying the annual special assessments.

Bel Aire struggled to find a workable answer for the developer's concern. With the existing special assessment law, there was no flexibility to delay or reduce the payments of the special assessments that were already spread to make them payable over a longer term.

Meetings with the developer were held to brainstorm approaches to address this final concern. City Manager Lasher began with the premise that the City might be open to covering costs of the special assessments, but that it would need to establish a limitation upon the period for which Bel Aire would be responsible for payments. The city council was open to the idea but needed to know how these costs would be recovered. The developer agreed that the pace of development would be increased without the burden of the special assessment payments for the initial two years of the development.

Working with the idea that the special assessments would need to be initially absorbed by Bel Aire as a cost of development, City Attorney Alison McKenney Brown, began to look for a secondary means of spreading these costs to the benefitting lots. It was determined the best tool to make this happen was to overlay a secondary special assessment on the benefitting lots through a Community Improvement District (CID). The secondary special assessment would extend the period of time for paying the original special assessments. They would eventually be paid for by the owner(s) of these lots so that Bel Aire would receive reimbursement

for initially covering some of the special assessment payments.

The Community Improvement District Act (Act) was approved by the Kansas Legislature in 2009 under K.S.A 12-6a26, *et seq.* The Act is generally recognized as authorizing local governments to create CIDs for the purpose of imposing and collecting a community improvement district sales tax retail sales. The Act centers on economic development and allows for special assessments. Many other states have enacted similar legislation to help spur economic growth coming out of the recession.

Prior to the property being sold to the developers, the bank petitioned for creation of the CID and Bel Aire accepted the petition. The CID process was streamlined since it was created at the beginning of the process and the land was still held by a single owner.

### The Solution

Clearly, the sale of the lots to the new developers would directly benefit Bel Aire as the sale would result in the unpaid assessed specials being brought up to date, as well as the payment of the outstanding back taxes. However, Bel Aire also needed some reassurance that its two-year investment in this development would eventually be repaid.

As the specials had initially been spread in 2011, by state law the actual owners of the lots would automatically be responsible for the payment of those assessments. Bel Aire and the developers decided that the best approach for paying the specials for the 2014 and 2015 tax years was for the developer to pay both the special assessments and real estate taxes when billed by the county. The developer would then provide Bel Aire with a receipt showing the



**“This development project provides a prime example of issues that can arise in a rapidly changing fiscal business environment and are issues that local governments need flexibility to deal with effectively.”**

specials had been paid, verifiable through the county's online tax information system. In turn, Bel Aire would reimburse the amount of the special assessments that had been paid.

Based on the possibility that a subsequent purchaser of a lot would choose not to seek the initial two-year reimbursement or would pre-pay their specials, it was important not to assess the CID special assessment upon all lots equally. Michelle Meyer, Assistant City Manager/Finance Director, will be responsible for tracking the amount of reimbursement provided to each lot over the two-year period. By doing this, only those special assessments actually advanced by the City would be spread through the CID assessment process to the benefiting lots.

The innovative use of the Act allowed every participant in the process to achieve some level of success. The bank was able to sell all of the lots that they had been holding without putting further investment into the properties, thereby avoiding the negative ramifications of having the property foreclosed upon by the county.

The developers who purchased the lots were able to invest more cash into constructing model homes as they were able to avoid incurring the carrying cost of special assessments, which meant that construction began immediately and added a vibrant and exciting new development to the community.

Bel Aire was paid for delinquent special assessments associated with the lots that had been unpaid prior to 2013, as well as the delinquent real estate taxes. The City and the community benefitted because a previously failed development was rejuvenated. The homes currently being constructed will add to the City's tax base, as well as residential valuation in the future. Finally, the burden of

the City paying special assessments for the failed development has been eliminated.

While it will take two years longer than what was anticipated in 2008 to receive total payment for the infrastructure improvements provided for the home lots, for Bel Aire, it is encouraging to know that eventually the specials will be paid by the lot owners.

### Successful Results

This development project provides a prime example of issues that can arise in a rapidly changing fiscal business environment and are issues that local governments need flexibility to deal with effectively. Bel Aire was able to use the Community Improvement District Act as an innovative financing tool in order to resolve this development issue. Though the Act was intended more for retail or commercial uses, Bel Aire utilized it to successfully revitalize a failed subdivision.

### Callouts

By using the Kansas Community Improvement District Act to work with several partners to resolve potentially devastating development concerns, serious impediments were turned into positive opportunities for growth.

 *Ty Lasher is the City Manager for Bel Aire. He can be reached at [tlasher@belaireks.gov](mailto:tlasher@belaireks.gov). Michelle Meyer is the Assistant City Manager/Finance Director for the City of Bel Aire. She can be reached at [mmeyer@belaireks.gov](mailto:mmeyer@belaireks.gov). Alison McKenney Brown is the City Attorney for the City of Bel Aire. She can be reached at [abrown@belaireks.gov](mailto:abrown@belaireks.gov).*

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## State Scene

### **KU Names Director of School of Public Affairs and Administration**

The University of Kansas - The University of Kansas has named an alumnus who is a nationally recognized public administrator as the new director of its School of Public Affairs and Administration.

Reggie Robinson, who has held numerous leadership and advisory posts at the state and federal level, was selected to lead the top-ranked school after a nationwide search. As director, Robinson will return to the institution where he earned his law degree in 1987.

Robinson has a strong record of public service focused on civil rights, juvenile justice and higher education policy. Throughout his career and volunteer experiences he has encouraged people with leadership capacity to step outside their own assumptions and perspectives, bridge different points of view, see common ground

and help others see it as well. "Reggie understands government and public service from the inside out. He knows how to move policy and institutions forward, often turning obstacles into opportunities. The school welcomes this experienced, perceptive and caring leader as our new director, and together we look forward to advancing teaching and research in the public service," said Steven Maynard-Moody, professor in the school and chair of the search committee. Robinson replaces Marilu Goodyear, who will step down after nine years as director. Goodyear has been appointed as the assistant vice chancellor for academic program development for the Edwards Campus in Overland Park and will continue to teach in the School of Public Affairs and Administration.

### **KDOT Program Will Reduce Number of Deficient Bridges on Local Road Systems**

Kansas Department of Transportation - A Kansas Department of Transportation program will reduce the number of deficient bridges on local road systems.

The new \$10 million program was announced in Hutchinson by Transportation Secretary Mike King, and will provide up to \$120,000 to local jurisdictions (primarily counties) to replace small bridges that are rated deficient. Bridges that qualify must have a daily vehicle count of less than 100 and be 20 to 50 feet in length.

"While qualifying bridges under the program have relatively low traffic numbers, they are important routes for farmers to get their equipment to fields and their crops to market," said Secretary King.

"Many of these bridges have a low load rating and it isn't legal or safe for some of today's large farm equipment to cross."

There are approximately 20,000 bridges on Kansas' local road systems and about eighteen percent of those are structurally deficient. Of those, about 1,800 to 1,900 would qualify for funding under program guidelines.

Local jurisdictions awarded funds must provide a ten percent match.

Applications will be accepted through mid-September and project selections will follow in early October. More information about the application process will soon be posted on KDOT's website.

### **Kansans Named to FCC Committee**

Federal Communications Commission - Chairman Tom Wheeler announced members of the FCC's Intergovernmental Advisory Committee (IAC) for 2014-2016. Members selected include Andy Huckaba, City Councilmember, Lenexa, Kansas, and Kansas State Representative Tom Sloan (R), Lawrence. The IAC provides policy guidance, expertise, and recommendations to the Commission on a range of communications issues for which local, state, and Tribal governments share responsibility or administration with the Commission.

The terms will commence with the new IAC's first meeting on July 14-15, 2014, at the Commission's headquarters in Washington, DC. The 2014-2016 IAC will focus on the role of state, local, and Tribal governments in facilitating technology transitions, broadband deployment and adoption, E-rate modernization, and public safety issues.



## Contracting

Every city has to contract for goods or services at some point. When this occurs, city officials should strive to hire competent individuals to fulfill these contracts for a fair price. This article will highlight several different contracting strategies, along with applicable Kansas laws.

### Defining the Good or Service

The first step in contracting is defining the good or service your city needs. If you do not know what specifications are needed, or what industry has the expertise to provide those products or services, you may need to issue a *request for information* (RFI). RFIs will generally be answered by consultants who can help guide you through the first stages of the contracting process.

Once you have gathered information using an RFI, or if you already have sufficient knowledge to define the product or service that your city needs, you can begin creating the *request for proposal* (RFP). Once finalized, the RFP should be published in locations where as many contractors as possible can view it.

### Soliciting Contractors

After the RFP is published, the city solicits a contractor. Some local governments use no-bid contracts. These are problematic because they can be perceived as encouraging favoritism and may result in delivery of inferior goods or services at unnecessarily high prices. However, a no-bid contract may be justified for small purchases, if only one contractor can provide a good or service, or if a municipality has time limitations.

Kansas laws only impose a few bidding requirements on local governments. For some improvements, cities of the first and second class may not select bids that exceed required engineer's estimates (K.S.A. 45-221(a)(33) exempts these estimates from open records requests). For other projects, these cities may be required to award the project to the lowest bidder. See K.S.A. 13-1017, K.S.A. 14-440, and K.S.A. 14-518. However, these requirements are in non-uniform statutes, so cities may charter out of them.

The best way to ensure your city receives a quality product or service at minimal cost is by allowing competitive bidding. Some competitive bidding strategies include oral bids, sealed written bids, and open bids. Oral bids are best used for small projects and can be accepted at public hearings. More common are sealed written bids, where contractors offer to provide a good or service without knowing the bids of the other contractors. Sealed bids are generally opened at a public meeting (K.S.A. 45-221(a)(28) exempts these bids from open records requests until one bid is accepted or all are rejected). After the bid opening, it is usually helpful to have relevant staff review the bids and make recommendations.

### Awarding the Contract

The final step in the bidding process is awarding the contract. A city may award the contract to the lowest bidder, which is often done when the competing contractors are offering a substantially similar product or service. For these bids, cities sometimes use a local bidder preference policy. These policies give local bidders a certain percentage or dollar amount advantage over non-local bidders. Although these policies are intended to support local businesses, some see them as unfair taxpayer subsidies.

If an RFP offers latitude in completing a project, the city may want to select the contractor with the best approach even if they are the

highest bidder. In these cases, it is often helpful to conduct what is called a *best value analysis*. If this analysis is used for a product, the municipality might look at how long each contractor's product will last or how efficient it is. For services, the city could consider the quality of past jobs or measure the quantity of outputs per \$1. For organizations with tight budgets, a better approach might be *low bid, technically acceptable* (LBTA), where potentially lower quality products or services are selected as long as they meet the RFP's specifications.

City officials should also keep ethical considerations in mind when awarding contracts. Any elected official or municipal employee should abstain from voting on, or participating in any contract when that official or employee has a substantial interest in the contractor's company. K.S.A. 75-4300, *et seq.* Additionally, for public works contracts over \$100,000, the city must require the contractor to file a public works bond with the clerk of the District Court. K.S.A. 60-1111. This protects the financial interests of any subcontractors supplying labor or materials for a project. Finally, it is important to remember that contractors have First Amendment rights. If a governing body terminates a contract because of statements that contractor has made about a public issue, the city could be liable for a First Amendment retaliation claim. *Bd. of Cnty. Comm'rs, Wabaunsee Cnty., Kan. v. Umbehr*, 518 U.S. 668 (1996).

### Challenges

According to a survey of local government managers, the greatest drawback of contracting is the difficulty of holding contractors accountable for their performance. Some strategies for increasing accountability include using sanctions to penalize poor performance or rewards for good results. One way to sanction poor performance is requiring payment of a performance bond. Then, if the project is not completed according to the specifications in the RFP, the city has received the bond payment even if the contractor has gone out of business or filed for bankruptcy. An example of a performance incentive is increased compensation for meeting contract deadlines.

Another problem that is often mentioned is a lack of quality vendors. Managers deal with this in a few different ways. Many use mixed delivery (i.e. part of the service is contracted out while another part is produced in-house), while others actively encourage outside organizations to set up new subsidiaries for contract work. Local governments may also help develop the capacity of a vendor so that they can bid on the good or service in the future.

### Conclusion

Contracting has become an essential part of local government. This article has outlined some laws and strategies your city should consider when seeking a good or service. Whatever processes your municipality establishes, it is important to regularly review those policies and apply them uniformly to all contractors.

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

### Sources

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# Classified Advertising

## **Assistant City Administrator/Director of Finance**

Roeland Park, located in Johnson County, is seeking an Assistant City Administrator/Director of Finance who will also oversee community development and neighborhood services. The selected individual will work under the supervision of the City Administrator.

Minimum qualifications for the position include a bachelor's degree or an equivalent combination of education/experience; five years of progressively responsible finance and economic development experience; considerable knowledge of municipal finance, economic development tools/agreements. Salary range is \$53,400 to \$83,422. Please see [www.roelandpark.net/aca-finance-director/](http://www.roelandpark.net/aca-finance-director/)

Send confidential resumes, cover letters, and references by 7/24/14 to: Aaron Otto, City Administrator, 4600 West 51st Street, Roeland Park, Kansas 66205

## **Assistant Director of Finance**

Addison, Texas, (population 15,830) is seeking an Assistant Director of Finance. Addison is a unique 4.4-square mile urban enclave with 170+ restaurants, 22 hotels, upscale living, unique retail shops, and over 12 million square feet of office space. Addison is located in the Dallas-Fort Worth Metroplex and has over 270 employees and an annual operating budget of over \$106.6 million.

Bachelor's degree and five years of supervisory experience required. Master's degree preferred. Credentials as a Certified Government Finance Officer are highly desired.

The salary range for this position is \$83,273.58-\$104,075.92, depending on qualifications and experience.

View complete position profile and apply online at:

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For more information contact:

Ron Holifield, CEO

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[Ron@GovernmentResource.com](mailto:Ron@GovernmentResource.com)

## **Chief of Police**

The City of Enterprise KS is accepting

applications for the position of Chief of Police. Candidates must have a history of proven leadership and integrity and a proven record of success. Experience in administration and budgeting and demonstration of longevity in a position. KLETC certification or reciprocal eligible certification required. Salary is based upon qualifications. Extensive background investigation will be conducted. Successful candidate will be required to live with the city limits. The City of Enterprise is a community of 950 located 4 miles off of Interstate 70 in central Dickinson County.

Interested persons may submit your resume and cover letter to: City of Enterprise Attn: Mayor Larry Jantz, PO Box 245 Enterprise, KS 67441. Applicants selected for interview will be provided an application packet which will be required to be completed in its entirety to be considered for the position.

## **City Administrator**

Columbus, Kansas (pop. 3,250; \$4.5 million budget; 32 FTE's), the county seat of Cherokee County, is located twenty-five miles west of Joplin, Missouri, on the edge of the Ozarks in southeast Kansas. The community has a strong, diverse economy, which is anchored by one of the largest construction contractors in the region. Columbus is also home to a technical college which helps maintain its skilled workforce, along with some of the best broadband service in southeast Kansas.

Columbus has a mayor-council form of government. The City maintains four parks and a number of other recreational facilities; operates water, wastewater, and solid waste utilities; and has police and fire departments. The City Administrator exercises general supervision over all municipal staff and manages day-to-day operations. The position is also expected to develop ideas to improve the community, research information for the council, and evaluate city programs.

Applicants should have a bachelor's degree in public administration or a related field and at least three years of public management experience. Candidates must showcase a history of hard-work, leadership, and have experience managing personnel. The new City Administrator will be expected to instill

professionalism within the organization, and collaborate with the public, council, and staff. Past budgeting experience is preferred.

Competitive benefits; Salary \$55,000-\$65,000 DOQ. Interested candidates should submit a cover letter, resume, and three work-related references to [LEAPS-Columbus@lkm.org](mailto:LEAPS-Columbus@lkm.org) or LEAPS-Columbus, 300 SW 8th, Topeka, KS 66603. If confidentiality is requested, please note in application materials. Position will remain open until filled. Application review will begin August 11. EOE.

## **City Administrator**

The City of Norton, Kansas (population 2,880), an industrious and forward thinking community in Northwest Kansas, is seeking a qualified leader to be its next City Administrator. The City operates under a \$14 million dollar budget with 33 full time employees. A Bachelor's degree in Public Administration or related field is required, with a minimum of three years of experience in public management. The City is looking for an Administrator who can successfully manage and communicate well with the governing body, the public, employees, and other public agencies; who can work closely with the Mayor and City Council to set and follow through on present and future goals; who has the strong ability to assist in preparing budgets; who can manage the trust that the public puts into the City's finances; and who has strong operational and organizational skills to work with some exceptional citizens and employees. Salary range is \$68,000 to \$80,000 annually with an excellent benefit package, including vacation, sick leave, discretionary days, medical insurance, KPERS, deferred compensation and cafeteria plan. Employment contract will be required. E.O.E., M/F/D.

For a complete job description, visit:

[www.discovernorton.com/NortonLife/CityInformation/NortonNewsAnnouncements.aspx](http://www.discovernorton.com/NortonLife/CityInformation/NortonNewsAnnouncements.aspx)

Resumes can be emailed to City Clerk Darla Ellis at [ntclerk@ruraltel.net](mailto:ntclerk@ruraltel.net) or by mailing to City Clerk, P.O. Box 160, Norton, KS 67654. Resumes or applications are due by 4:00 p.m. on Friday, August 15, 2014. Position is open until filled.

**Deputy City Clerk /  
Public Information Officer**

The City of Prairie Village, Kansas is seeking a creative, self starter to become a Deputy City Clerk / Public Information Officer. Great communication, customer service skills and computer proficiency, specifically Microsoft Office, are a must. Some evening work is required. A bachelor's degree in a from an accredited four-year college with experience in a municipality is preferred.

The position's primary responsibilities include facilitation of City committee meetings, assistance with the City Clerk department, day-to-day maintenance of the City and ancillary websites and social media outlets, event planning, and provide assistance for the City Clerk department with recreation memberships, licensing, and document retention program.

Salary range for this position is \$19.63 to \$29.45/hour, DOQ.

Interested candidates should submit an application for employment along with a resume and cover letter via the City's website, [www.pvkansas.com](http://www.pvkansas.com). The review of applications and resumes will begin Tuesday, July 22.

**Development Services Manager**

The City of Topeka (KS) is seeking qualified candidates for the Development Services Manager. This position is responsible for directing and managing activities of the Development Services Division including responding to inquiries and complaints regarding the development process, reviewing proposed changes to city ordinances and policies, administering the budget for the division and supervising staff. Minimum qualifications: Bachelor's Degree from an accredited college or university in architecture, architectural engineering, construction sciences or related field along with five (5) years of professional experience in building construction and development with a minimum of three (3) years in a personnel supervision capacity.

Annual entry salary range: \$65,688 – \$82,636 DOQ.

A full position profile is available at <http://www.topeka.org/HumanResources/Jobs/DevSvcMgrProfile.pdf>

To apply, please visit [www.topeka.org/jobs.shtml](http://www.topeka.org/jobs.shtml)

**Electric Distribution Lineman**

The City of Lucas (pop. 392) is accepting applications for a full-time electrical lineman

or journeyman lineman. Job duties include construction and maintenance of electric distribution Wye-system, assisting with operation of water, wastewater, streets and parks. Public relations, math, mechanical and construction skills a must. High school diploma or GED, driver's license, and minimum of three years lineman experience required. Must reside in the City of Lucas or meet residency requirement within 90 days. Salary dependent on qualifications. Benefits include vacation, sick leave, health insurance and KPERS retirement benefits. Applications accepted until position is filled. Send application/resume to City of Lucas, P. O. Box 308, Lucas, KS 67648 EOE

**Economic Development Coordinator**

The City of Goodland, Kansas (4,600) is looking for a dynamic leader to serve as its economic development coordinator. The City is poised for economic growth as it looks to focus its energy on its economy. While the position will work to recruit businesses to the community, it will also need to be filled by an individual who can help create programs that grow and retain current employers of the community and serve as the Director of the Goodland area Chamber of Commerce. The position will require someone with good communication, creative thinking, and collaborative skills. Review of applications will begin on August 1, 2014 and the position will remain open until filled. Cover letter and resume including three (3) references should be submitted to Gerry Bieker, City Manager, P.O. Box 59, Goodland, KS 67735. Electronic submittals can be made to [gerry.bieker@cityofgoodland.org](mailto:gerry.bieker@cityofgoodland.org). Starting salary range is \$43,000 – \$59,000 annually DOQ, plus competitive benefits.

**Fire Fighter**

The City of Colwich Fire Department is accepting applications for a full-time firefighter with potential for advancement. Salary DOQ. Submit salary requirements when applying. Must be EMT and Firefighter certified with a minimum of 2 years training or experience. Relocation required after six months employment. Applicants may apply at 310 S. Second, Colwich KS, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m. or by email at [colwichclerk@sbcglobal.net](mailto:colwichclerk@sbcglobal.net). Applications or resumes will be accepted until position filled. The City of Colwich is an Equal Opportunity Employer.

**Finance Director**

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This position will report to and provide responsible and complex administrative support to the City Manager. Plan, direct, manage and oversee the activities and operations of the Finance Department, as well as recommend and administer policies and procedures. Key job duties include financial reporting, fiscal analysis, all accounting functions in the management of the city's finances, and oversight of an external financial audit for compliance with City laws and policies. The Finance Director will oversee the city's debt management, investments, payroll, purchasing and utility billing. Other key job duties include writing and administration of grants, and coordinating assigned activities with other city departments and outside agencies.

Equivalent to a Bachelor's degree, with major course work in Finance, Accounting, or a closely related field. Master's degree is preferred. Eight years of increasingly responsible experience in governmental management, accounting, or a related field. Must be eligible for surety bond and establish residency with in the first six months of hire. The successful candidate will pass the background check, post-offer City physical and drug screen.

APPLY ONLINE BY:

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[www.LawrenceKS.org/Jobs](http://www.LawrenceKS.org/Jobs)

**Senior Software Developer**

The City of Addison, Texas, located in the Dallas-Fort Worth Metroplex, is seeking a Senior Software Developer. Addison has a population of 15,830 and 270 employees.

Bachelor's degree required. The candidate should have significant knowledge of complex database concepts and demonstrated work experience with more than one relational database management system. Experience in design, development, testing and deployment of web applications and user interfaces using Java, HTML, HTML5, XML, MySQL, SQL, Web Services and .NET technology is required.

Salary range is \$83,273.58 - \$124,878.26 DOQ.

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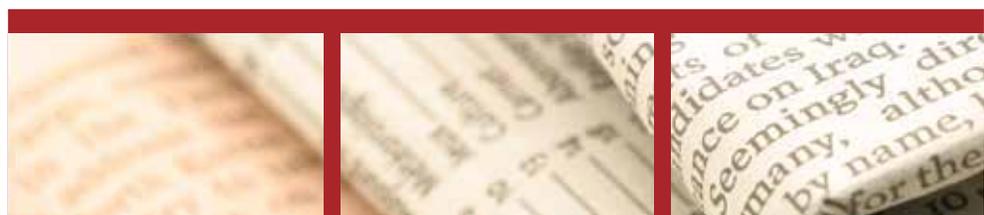
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# KGJ: A Look Back

## KANSAS GOVERNMENT JOURNAL

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No. 7

### The Importance of Budgeting

It's budget making time for thousands of local government officials across Kansas. So it's timely to note that the development of the annual budget is the single, most important task of local governing bodies. It deserves more study and attention by elected officials than any other function. While assembling the details may be assigned to administrative personnel, or even farmed out to private persons and companies, it is the elected governing body which has the ultimate legal and public responsibility for the budget.

The budget of a local unit provides the governing body with unique opportunities to lead and redirect local affairs. It is an opportunity to evaluate current programs and activities and to measure their effectiveness and efficiency. It is the way a county, city or school establishes the level of quality of its service and the programs it will conduct during the coming year. It is at budget making time that the local unit determines its manpower needs and required supplies and equipment for the coming year.

The... many variables involved this year, may encourage some local officials to "throw in the towel," to give upon the job, to just copy last year's figures, and to fail to fully utilize the opportunities the budget process provides. Certainly the financial ability of Kansas governments to even maintain, if not expand, programs to improve the quality of the public environment is severely limited this year. But the need for and the opportunity to review the priorities and objectives of counties, cities and schools have never been greater. Public acceptance of suggestions to drop old programs and activities and to take on more needed functions is probably at its highest point. Local units have an opportunity to reorder their priorities and to emphasize the efficiency and effectiveness of their priorities and to emphasize the efficiency and effectiveness of those activities they can afford. For cities especially, which have extensive powers to levy or increase fees and service charges, now is a good time for pioneering new financing methods to take effect in 1972.

All this is to say that local officials should not give up, despite temptations to do so. One can complain about all the uncertain conditions that prevent tight budgeting for 1972. And it may be tempting to take the attitude that the state legislature "put us in this mess," so why should we struggle to improve the situation. But these are no the attitudes which promote sound and progressive development of our communities.

Budget making this year deserves top priority in concern and attention of local officials.

E.A.M.

*Editorial written by Ernie Mosher, Executive Director  
of the League of Kansas Municipalities from 1960 to 1991.*

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  - ◇ Desks & Credenzas
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“WHY STUDY  
THE STARS?  
*they all look*  
THE SAME TO ME.”

{ *Apprentice to  
Galileo Galilei, 1636* }

*It matters who you listen to.*

  
GILMORE BELL

GILMORE & BELL, PC

BOND COUNSEL



The choice of a lawyer is an important decision and should not be based solely on advertisements.